

02C01-9905-CR-00152
IN THE CRIMINAL COURT OF TENNESSEE FOR THE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS

STATE OF TENNESSEE

Appellee,

vs.

MICHAEL D. RIMMER,

Appellant.

ORIGINAL

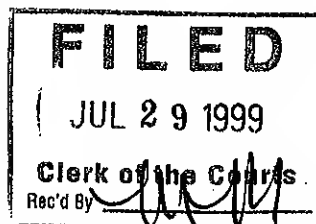
CASE NOS. 97-02817
98-01033
98-01034

TRANSCRIPT OF THE EVIDENCE

VOLUME 5 OF 14 VOLUMES

THE HONORABLE W. FRED AXLEY, PRESIDING JUDGE

FILED 6-14-99
WILLIAM R. KEY CLERK
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Vol. 7

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1 release them.

2 Now, let's fill the front row.

3 CLERK: Mark Larson, L-A-R-S-O-N.

4 THE COURT: Mr. Larson, can you stay as a guest
5 of the sheriff for a while?

6 JUROR LARSON: Yes, sir.

7 THE COURT: Thank you sir. Are you employed?

8 JUROR LARSON: Yes, sir.

9 THE COURT: Where?

10 JUROR LARSON: Trifthaven Baptist Academy.

11 THE COURT: Okay. And what do you do there?

12 JUROR LARSON: I'm a high school teacher.

13 THE COURT: Any specific course?

14 JUROR LARSON: Algebra, geometry, pre-calculus,
15 physical science, P. E.

16 THE COURT: That's pitiful. I've got more
17 degrees than a Fahrenheit thermometer and I still can't add
18 and I'm looking at a fellow down here that's just putting
19 me to shame. Are you married?

20 JUROR LARSON: No, sir.

21 THE COURT: All right, sir. Next.

22 CLERK: Janet, last name spelled D-U-L-I-K.

23 THE COURT: Is that Dulik?

24 JUROR DULIK: Dulik.

25 THE COURT: Okay. Can you stay as a guest of the

1 sheriff for a while?

2 JUROR DULIK: No, sir.

3 THE COURT: Tell me why.

4 JUROR DULIK: I have two children. My husband
5 leaves for work approximately 5:30 in the morning and there
6 wouldn't be anyone there. They don't -- aren't due in
7 school till 8:45. I have no relatives here in the state.
8 There's no one to take care of them between those hours.

9 THE COURT: Who's taking care of them now?

10 JUROR DULIK: Well, my husband took a week's
11 vacation so that I could come here this week.

12 THE COURT: Counsel approach the bench.

13
14 (A bench conference was held as
15 follows.)

16
17 THE COURT: What do you want to do?

18 MR. HENDERSON: I have no objection to her being
19 excused.

20 THE COURT: Mr. Johnson?

21 MR. JOHNSON: No objection.

22
23 (Said bench conference was concluded.)

24
25 THE COURT: All right. You're excused for cause.

1 Step down, please, ma'am. You can release her.
2
3 (Juror Janet Dulik was excused for
4 cause.)
5
6 THE COURT: Call another name.
7 CLERK: Carl Covey, C-O-V-E-Y.
8 THE COURT: Mr. Covey, can you stay as a guest of
9 the sheriff for a while?
10 JUROR COVEY: No.
11 THE COURT: And you'll have to tell me why.
12 JUROR COVEY: I have a fiancée that's been
13 transported to Jackson, Mississippi for an aneurysm. She's
14 in Hattiesburg, Mississippi. The reason I'm here is --
15 THE COURT: I know the place well. Forest
16 General Hospital.
17 JUROR COVEY: Yeah, actually that's where she's
18 at. And the only reason I'm here is because I had jury
19 duty. I've been off of work for almost two weeks with her.
20 I need to get back to her as soon as I can.
21 THE COURT: Counsel.
22 Why did she go to Forest County?
23 JUROR COVEY: She's from Laurel.
24 THE COURT: Really? Jones County?
25 JUROR COVEY: We just got out of Baptist. She

1 went home to visit mom and was feeling better and then.....

2 THE COURT: All right.

3

4 (A bench conference was held as
5 follows.)

6

7 THE COURT: What do you want to do?

8 MR. HENDERSON: He ought to be excused. He's not
9 going to be concentrating on our trial.

10 THE COURT: Okay.

11

12 (Said bench conference was concluded.)

13

14 THE COURT: You're excused.

15

16 (Juror Carl Covey was excused for
17 cause.)

18

19 THE COURT: Next name.

20 CLERK: Linda Ann Red, R-E-D.

21 THE COURT: Ms. Red, can you stay as a guest of
22 the sheriff for a while?

23 JUROR RED: Yes, I can.

24 THE COURT: Thank you. Are you employed?

25 JUROR RED: Mmm-hmm (yes).

1 THE COURT: Where?

2 JUROR RED: Shelby County schools.

3 THE COURT: Really? What do you do there?

4 JUROR RED: I'm a speech therapist.

5 THE COURT: Are you really?

6 JUROR RED: (Nodding yes.)

7 THE COURT: Do you know that I'm having to be

8 treated by one of those voice -- what do they call them?

9 Voice coach?

10 JUROR RED: Well, speech therapist would do voice

11 therapy.

12 THE COURT: Yeah. Yeah. This guy treats opera

13 singers and things like that. I don't do that but I talk a

14 lot and it causes nodules. And I went in there and asked

15 him, I said, Well, you know, make me talk like a sissy, are

16 you? And he says, Why, no. (Laughter) So I was looking

17 for somebody and here you came. I think I'm going to

18 change here.

19 Well, so how long you been doing that?

20 JUROR RED: I've been doing this -- I've been a

21 therapist for twenty years.

22 THE COURT: Have you really?

23 JUROR RED: I've been at the Shelby County

24 Schools for six this year.

25 THE COURT: Okay. Married?

1 JUROR RED: No.

2 THE COURT: Okay. Next.

3 CLERK: Bernice Kuglin, K-U-G-L-I-N.

4 THE COURT: Can you stay as a guest of the
5 sheriff for a while?

6 JUROR KUGLIN: Yes.

7 THE COURT: Thank you. You could just about walk
8 to work, couldn't you?

9 JUROR KUGLIN: Just about. I did.

10 THE COURT: Well, you won't for the next week or
11 so. Are you employed?

12 JUROR KUGLIN: Yes, I am.

13 THE COURT: Where?

14 JUROR KUGLIN: Federal Express.

15 THE COURT: Ma'am?

16 JUROR KUGLIN: Fed Ex.

17 THE COURT: Oh, okay. What do you do there?

18 JUROR KUGLIN: I'm a pilot.

19 THE COURT: Ma'am?

20 JUROR KUGLIN: I'm a pilot.

21 THE COURT: Okay. So like how long have you been
22 with Fed Ex?

23 JUROR KUGLIN: Thirteen years.

24 THE COURT: All right. And, see, I don't know
25 much about airlines or package carrier or what. I know

1 about truck lines. But, I mean, are you on a bid run, or
2 you on an extra board, or what -- how do they dispatch you?
3 JUROR KUGLIN: Excuse me, sir?
4 THE COURT: When you get a trip, how do you know
5 where you're going to go?
6 JUROR KUGLIN: We bid each month.
7 THE COURT: Okay. So you're on a bid run, right?
8 JUROR KUGLIN: Right.
9 THE COURT: Okay. Not just out there for them to
10 call and send you where they want to.
11 JUROR KUGLIN: Hopefully not.
12 THE COURT: Yeah, well, especially during
13 Christmas-time.
14 JUROR KUGLIN: (Nodding yes.)
15 THE COURT: Mess my packages up.
16 JUROR KUGLIN: (Nodding yes.)
17 THE COURT: Okay. Are you married?
18 JUROR KUGLIN: No, I'm not.
19 THE COURT: Okay. Next.
20 CLERK: William Dozier, D-O-Z-I-E-R.
21 THE COURT: Mr. Dozier, can you stay as a guest
22 of the sheriff for a while?
23 JUROR DOZIER: Yes, sir.
24 THE COURT: Thank you, sir. Are you employed?
25 JUROR DOZIER: Yes, sir.

1 THE COURT: Where?

2 JUROR DOZIER: Light, Gas and Water.

3 THE COURT: What do you do there?

4 JUROR DOZIER: In the water operations

5 maintenance and water.

6 THE COURT: All right. You mean you maintain the

7 pumping stations?

8 JUROR DOZIER: Right.

9 THE COURT: Okay. How long you been doing that?

10 JUROR DOZIER: Twenty-eight years.

11 THE COURT: All right, sir. And you married?

12 JUROR DOZIER: Yes, sir.

13 THE COURT: Your wife employed?

14 JUROR DOZIER: Memphis Cancer Center.

15 THE COURT: Okay. And what does she do there?

16 JUROR DOZIER: She's Director of Nursing.

17 THE COURT: Okay. Any children?

18 JUROR DOZIER: One.

19 THE COURT: Age?

20 JUROR DOZIER: Twenty-two.

21 THE COURT: Thank you. Next.

22 JUROR STEPHENSON: Christopher Avent, A-V-E-N-T.

23 THE COURT: Mr. Avent, can you stay as a guest of

24 the sheriff for a while?

25 JUROR AVENT: Yes, sir.

1 THE COURT: Sir?

2 JUROR AVENT: Yes, sir.

3 THE COURT: Thank you. Are you employed?

4 JUROR AVENT: Yes, sir.

5 THE COURT: Where?

6 JUROR AVENT: Coastal Corp, Corporation.

7 THE COURT: Where?

8 JUROR AVENT: Coastal Corporation.

9 THE COURT: Over there in West Memphis?

10 JUROR AVENT: Yeah, we have a facility in West

11 Memphis.

12 THE COURT: Yeah. Saw you on TV.

13 JUROR AVENT: Yeah. I think everyone did.

14 THE COURT: It's good advertising. Well, it

15 wasn't your fault. What do you do there?

16 JUROR AVENT: Territory manager.

17 THE COURT: Okay. You don't have anything to do

18 with grinding or welding.. See, I told you it wasn't your

19 fault.

20 JUROR AVENT: No.

21 THE COURT: All right. Married?

22 JUROR AVENT: Yes.

23 THE COURT: Wife employed?

24 JUROR AVENT: Yes.

25 THE COURT: Where?

1 JUROR AVENT: Memphis Symphony.

2 THE COURT: Yeah. What does she do?

3 JUROR AVENT: She's special events coordinator.

4 THE COURT: What a job.

5 JUROR AVENT: Yeah.

6 THE COURT: How long she been doing that?

7 JUROR AVENT: Just this summer. Big ball's

8 coming up next weekend.

9 THE COURT: Yeah, I know.

10 JUROR AVENT: Yeah.

11 THE COURT: I won't be there. I'll be working

12 next weekend. And so will some of you. However, that

13 would be a good evening entertainment, wouldn't it? Well,

14 if you get on the jury, we'll --

15 JUROR AVENT: See what I can do.

16 THE COURT: We'll make contact with her. Don't

17 they have a balcony or something where we can sit there and

18 watch the rich people dance. (Laughter)

19 JUROR AVENT: There's a lot of those.

20 THE COURT: I'm telling you. You got any

21 children?

22 JUROR AVENT: Yes, sir.

23 THE COURT: How many?

24 JUROR AVENT: One.

25 THE COURT: Age?

1 JUROR AVENT: Nine months.

2 THE COURT: Wow. Thank you. Next.

3 CLERK: Bryan Moore, first name B-R-Y-A-N,
4 M-O-O-R-E.

5 THE COURT: Mr. Moore, can you stay with us for a
6 few days as a guest of the sheriff?

7 JUROR MOORE: Yes, sir.

8 THE COURT: Thank you, sir. Are you employed?

9 JUROR MOORE: Yes, sir.

10 THE COURT: Where?

11 JUROR MOORE: Avery Express.

12 THE COURT: Okay. Now, what do you do?

13 JUROR MOORE: Dock associate.

14 THE COURT: How long you been on the dock?

15 JUROR MOORE: Seven years.

16 THE COURT: Wow. Married?

17 JUROR MOORE: No.

18 THE COURT: Okay, sir. Now, y'all have been in
19 the room. Can you hear these lawyers? You know where we
20 are and why we're here? Anybody that doesn't know?

21 (No response.)

22 I'm going to let them talk to you but I want to
23 make sure you're caught up with us, in step.

24 All right, State.

25 MR. HENDERSON: Thank you, Your Honor.

1 Y'all have been able to hear our questions, and
2 the answers, and the speeches from there, then; is that
3 right?

4 (No verbal response.)

5 Now, anything strike you as something you ought
6 to bring to our attention right now based on what you heard
7 us ask the other jurors?

8 (No verbal response.)

9 Thought I'd take a short-cut here. Anything at
10 all?

11 (No response.)

12 All right. Any of y'all ever been on jury duty?

13 Yes, sir?

14 JUROR DOZIER: I have.

15 MR. HENDERSON: Okay. How long ago was it?

16 JUROR DOZIER: Ten years.

17 MR. HENDERSON: Was that here in Shelby County?

18 JUROR DOZIER: Yes, sir.

19 MR. HENDERSON: Did you sit on any criminal cases
20 back then?

21 JUROR DOZIER: Yes, sir.

22 MR. HENDERSON: Did you sit on any murder cases
23 back then?

24 JUROR DOZIER: No, sir.

25 MR. HENDERSON: Okay. You understand we might do

1 things a little differently now than we did ten years ago?

2 JUROR DOZIER: (Nodding yes,)

3 MR. HENDERSON: And all the law you get to use in
4 this case you have to learn from His Honor Judge Axley.
5 Think you can handle that all right?

6 JUROR DOZIER: Yes, sir.

7 MR. HENDERSON: Try to forget all the law that
8 you learned ten years ago when you were on jury duty.

9 Okay. Anybody else?

10 (No response.)

11 Anybody up here know or think they know anything
12 at all about this case, either heard it in the streets,
13 heard it from your neighbors or friends at work, or saw
14 anything in the media about it?

15 JUROR AVENT: Well, sure, the media.

16 MR. HENDERSON: Yeah. Okay. Anything that you
17 think would cause you any problems in this case? And,
18 again, don't tell me what the details are but most people
19 just have this vague idea they saw something in the case.
20 Anybody remember any real details about what they saw?

21 (No response.)

22 Any one of y'all believe everything you read in
23 the newspaper?

24 (No verbal response.)

25 MR. HENDERSON: Okay. Believe everything you see

1 on TV?

2 (No verbal response.)

3 Okay. I'm going to go ahead and ask you-all some
4 of those individual questions.

5 You're a high school teacher with the -- what's
6 the name of the Baptist academy?

7 JUROR LARSON: Thrifthaven.

8 MR. HENDERSON: Thrifthaven. Okay.

9 (Indiscernible) -- Road?

10 JUROR LARSON: No, sir.

11 MR. HENDERSON: Where is it?

12 JUROR LARSON: It's Graham and Jackson.

13 MR. HENDERSON: Yeah, Graham. Okay. It's around
14 that area.

15 JUROR LARSON: Austin Peay.

16 MR. HENDERSON: Okay. Around there. How long
17 have you lived here in Shelby County?

18 JUROR LARSON: Three, almost three and a half
19 years.

20 MR. HENDERSON: Where did you live before you
21 came here?

22 JUROR LARSON: Minneapolis, Minnesota.

23 MR. HENDERSON: Okay. What brought you from
24 Minneapolis down here to the south?

25 JUROR LARSON: Teaching position.

1 MR. HENDERSON: Okay. It wasn't the weather,
2 then?

3 JUROR LARSON: No, sir.

4 MR. HENDERSON: It wasn't the fishing. You've
5 got pretty good fishing, too, don't you?

6 JUROR LARSON: Oh, yeah.

7 MR. HENDERSON: Have you or anybody close to you
8 ever been involved in a criminal case before? And by that
9 I mean ever been a victim of a crime, a witness to a crime,
10 or charged with a crime, you or anybody close to you?

11 JUROR LARSON: No, sir.

12 MR. HENDERSON: Were you able to hear my
13 explanation of the procedure used for imposing the death
14 penalty in Tennessee?

15 JUROR LARSON: Yes, sir.

16 MR. HENDERSON: If we prove to you beyond a
17 reasonable doubt that the defendant's guilty of murder in
18 the first degree, and prove to you the existence of at
19 least one of those statutory aggravating circumstances, and
20 prove to you further that that aggravating circumstance
21 outweighs any mitigating circumstances beyond a reasonable
22 doubt, would you be able to sign your name to a verdict
23 imposing the death penalty?

24 JUROR LARSON: Yes, sir.

25 MR. HENDERSON: Ms. Red, how long have you been

1 in the speech therapist business?

2 JUROR RED: I've been a therapist for twenty
3 years.

4 MR. HENDERSON: Twenty years.

5 JUROR RED: Mmm-hmm (yes).

6 MR. HENDERSON: How long have you lived here in
7 Shelby County?

8 JUROR RED: About twenty years.

9 MR. HENDERSON: Okay. I didn't catch it, are you
10 married, ma'am?

11 JUROR RED: No.

12 MR. HENDERSON: Have you or anybody close to you
13 ever been involved in a criminal case before in any way?

14 JUROR RED: My apartment was broken into.

15 MR. HENDERSON: How long ago was that?

16 JUROR RED: About ten years ago.

17 MR. HENDERSON: Did they ever catch anybody as
18 far as you know?

19 JUROR RED: Mmm-mmm (no).

20 MR. HENDERSON: Did you hear my explanation of
21 the procedure used for imposing the death penalty in
22 Tennessee?

23 JUROR RED: (Nodding yes.)

24 MR. HENDERSON: If you found yourself part of a
25 jury that found the defendant guilty beyond a reasonable

1 doubt of murder in the first degree, and you further found
2 that we've proven at least one aggravating circumstance,
3 and that it outweighed any mitigating circumstances, all of
4 that beyond a reasonable doubt, would you be able to sign
5 your name to a verdict imposing the death penalty?

6 JUROR RED: Mmm-hmm (yes).

7 MR. HENDERSON: Ms. Kuglin, is that correct?

8 JUROR KUGLIN: Kuglin.

9 MR. HENDERSON: All right. Where do you fly
10 normally with Fed Ex? What route do you fly?

11 JUROR KUGLIN: This month I'm doing Newark.

12 MR. HENDERSON: Newark, New Jersey.

13 JUROR KUGLIN: Memphis-Newark-Memphis.

14 MR. HENDERSON: All right. And, of course, they
15 expect you not to be back this week, right?

16 JUROR KUGLIN: That's correct.

17 MR. HENDERSON: Are they going to handle it well
18 when you tell them you're not going to be back next week,
19 too? Or do you care?

20 JUROR KUGLIN: Not under the current
21 circumstances.

22 MR. HENDERSON: Okay. All right. You been
23 living here in Shelby County for the last thirteen years
24 with them?

25 JUROR KUGLIN: Yes.

1 MR. HENDERSON: Have you or anybody close to you
2 ever been involved in a criminal case before in any way?

3 JUROR KUGLIN: No.

4 MR. HENDERSON: And did you understand the
5 procedure used for imposing the death penalty in Tennessee?

6 JUROR KUGLIN: Yes, I did.

7 MR. HENDERSON: If you find yourself in the
8 situation where, as defined by the law, and as you judge
9 the facts it's one of those cases where the law says the
10 punishment shall be death, would you be able to follow that
11 law and vote to impose the death penalty?

12 JUROR KUGLIN: Under one circumstance and that
13 would be the circumstance that that's what the convicted
14 person wanted.

15 MR. HENDERSON: Oh, only if the defendant wants
16 to be executed would you be able to do it.

17 JUROR KUGLIN: That's correct.

18 MR. HENDERSON: Okay. If the judge tells you
19 that even if he doesn't, under certain circumstances the
20 law says the punishment shall be death, and you found this
21 was one of those cases, for instance, that you found the
22 defendant guilty beyond a reasonable doubt of murder in the
23 first degree, and you also found that we've proven at least
24 one aggravating circumstance beyond a reasonable doubt, and
25 you found that that aggravating circumstance outweighed any

1 mitigating circumstances, under that situation and the law
2 says the punishment shall be death, would you be able to
3 follow that law and impose the death penalty regardless of
4 what the defendant wanted?

5 JUROR KUGLIN: I've spent too many years opposing
6 the death penalty. I don't believe I could. Unless that
7 was his desire.

8 MR. HENDERSON: You could --

9 JUROR KUGLIN: If that was the desire of the
10 defendant, then I could. Otherwise, I could not.

11 MR. HENDERSON: You understand whoever it is,
12 we're not talking about this particular defendant.

13 JUROR KUGLIN: Right. Any defendant.

14 MR. HENDERSON: The murderer doesn't usually give
15 the victim that choice.

16 JUROR KUGLIN: I understand that.

17 MR. HENDERSON: But other than that situation you
18 would never be able to give the death penalty?

19 JUROR KUGLIN: That's correct.

20 MR. HENDERSON: And would it make any difference
21 to you if the judge told you that's not the law in
22 Tennessee, that it's up to the defendant?

23 JUROR KUGLIN: That's correct.

24 MR. HENDERSON: And you would still stand by your
25 own personal feelings and not vote to impose the death

1 penalty unless the defendant asked for it?

2 JUROR KUGLIN: I would have to.

3 MR. HENDERSON: Your Honor, I'd ask she be
4 excused for cause.

5 THE COURT: All right, Mr. Johnson, you care to
6 talk with her?

7 MR. JOHNSON: Ms. Kuglin.

8 JUROR KUGLIN: Yes.

9 MR. JOHNSON: You understand that the law
10 provides guidelines and asks you to choose the death
11 penalty, life without the possibility of parole, or life.
12 It asks you to choose, it gives guidelines.

13 JUROR KUGLIN: That's correct.

14 MR. JOHNSON: We're not asking you, or we're not
15 asking you to vote one way or the other now. We're asking
16 you if you can consider the evidence, and follow the law,
17 and make your choice based upon your decision. Can you do
18 that?

19 JUROR KUGLIN: I'm -- my conscience would still
20 override the law. Unless the defendant asked for the death
21 penalty.

22 MR. JOHNSON: Well, you understand that nobody
23 can ask you to render the death penalty. Nobody can tell
24 you this is what you have to do. You do it based upon what
25 the law is. And what I'm asking you, can you follow the

1 law?

2 JUROR KUGLIN: Not in violation of my conscience.
3 I can't. Unless the defendant requested it.

4 MR. JOHNSON: Thank you. And I understand.

5 THE COURT: All right. You're excused for cause.
6 You may step down, please, ma'am. Step out the back door.
7 She's released.

8
9 (Juror Bernice Kuglin was excused for
10 cause.)

11
12 THE COURT: Y'all approach the bench just a
13 minute.

14
15 (A bench conference was held as
16 follows.)

17
18 THE COURT: Do you want to fill that seat or do
19 you want to leave it blank?

20 MR. HENDERSON: Why don't we just go ahead and as
21 long as we've got twelve in the box I'd rather just keep on
22 going.

23 THE COURT: Same thing here?

24 MR. JOHNSON: I guess we might as well fill it
25 since he hasn't finished the --

1 THE COURT: Sir?

2 MR. JOHNSON: We might as well fill it since he
3 hasn't finished the --

4 MR. HENDERSON: I'm easy. If that's what he
5 wants, it's okay with me.

6 MR. JOHNSON: I mean, he hasn't finished the voir
7 dire is why I'm suggesting that.

8 THE COURT: Yeah, it might be a good idea to keep
9 it full.

10 MR. JOHNSON: Yeah.

11 THE COURT: Okay. Thank you.

12

13 (Said bench conference was concluded.)

14

15 THE COURT: All right. Let's fill that seat,
16 Ms. Clerk.

17 CLERK: Tiffany Hall, H-A-L-L.

18 THE COURT: Ms. Hall, can you stay as a guest of
19 the sheriff for a while?

20 JUROR HALL: Yes, sir.

21 THE COURT: Thank you. Where are you employed?

22 JUROR HALL: At Goldsmith's and at KFC.

23 THE COURT: Okay. Goldsmith's and -- you've got
24 two jobs, then?

25 JUROR HALL: Yes, sir.

1 THE COURT: Married?

2 JUROR HALL: No, sir.

3 THE COURT: Because you don't have time.

4 All right, Mr. Henderson.

5 MR. HENDERSON: Thank you.

6 Ms. Hall, what do you do with Goldsmith's?

7 JUROR HALL: I'm a sales associate.

8 THE COURT: And what do you do for KFC?

9 JUROR HALL: Cashier.

10 MR. HENDERSON: How long have you been with

11 Goldsmith's?

12 JUROR HALL: A year.

13 MR. HENDERSON: And how long with KFC?

14 JUROR HALL: About four or five years off and on.

15 MR. HENDERSON: Okay. How long have you lived

16 here in Shelby County?

17 JUROR HALL: All my life, twenty-two years.

18 MR. HENDERSON: Do you know anything about this

19 case or any of the people involved in the case?

20 JUROR HALL: No, sir.

21 MR. HENDERSON: Have you or anybody close to you

22 ever been involved in a criminal case before in any way?

23 Been a victim of a crime, or a witness to it, or charged

24 with it? You or anybody close to you?

25 JUROR HALL: No, sir.

1 MR. HENDERSON: Have you heard our explanation of
2 the procedure used for imposing the death penalty in
3 Tennessee?

4 JUROR HALL: Yes, sir.

5 MR. HENDERSON: If you find yourself a part of a
6 jury that finds the defendant guilty beyond a reasonable
7 doubt of murder in the first degree, and you find that we
8 have proven at least one aggravating circumstance beyond a
9 reasonable doubt, and you find that that aggravating
10 circumstance outweighs any mitigating circumstances in the
11 case beyond a reasonable doubt, will you sign your name to
12 a verdict imposing the death penalty?

13 JUROR HALL: Yes, sir.

14 MR. HENDERSON: Mr. -- is it Dozier? Is that
15 the way you pronounce that?

16 JUROR DOZIER: (Nodding yes.)

17 MR. HENDERSON: Have you or anybody close to you
18 ever been involved in a criminal case before in any way?

19 JUROR DOZIER: My house has been broken into
20 twice.

21 MR. HENDERSON: Have they ever caught anybody as
22 far as you know?

23 JUROR DOZIER: No.

24 MR. HENDERSON: Okay. Anything about that that
25 would affect your judgment at all in this case?

1 JUROR DOZIER: (Shaking head no.)

2 MR. HENDERSON: You heard our explanation of the
3 procedure used for imposing the death penalty in Tennessee?

4 JUROR DOZIER: Yes, sir.

5 MR. HENDERSON: If as a part of this jury you
6 found this was one of those cases where the law says the
7 punishment shall be death, would you be able to follow that
8 law and vote to impose the death penalty?

9 JUROR DOZIER: I have a problem with the death
10 penalty.

11 MR. HENDERSON: Okay. Would that problem -- and,
12 again, keep in mind that's not a legal impediment to
13 sitting. The question is if it came down to that situation
14 where you had found the defendant guilty beyond a
15 reasonable doubt, found that we had proven an aggravating
16 circumstance beyond a reasonable doubt, found that that
17 aggravating circumstance outweighed any mitigating
18 circumstances in the case, under those circumstances the
19 law says the punishment shall be death. Would you be able
20 to set your personal convictions aside and follow that law
21 or would you stand by your personal convictions and not
22 impose the death penalty?

23 JUROR DOZIER: I'd have a real problem signing
24 that, I mean.....

25 MR. HENDERSON: Well, I expect that everybody

1 here will have a problem with signing that. I don't know
2 that I would want somebody who wouldn't have a problem
3 signing that. On the other hand, if you can do it if
4 that's what the law says is what we're looking for.

5 JUROR DOZIER: I don't know if I could or not.

6 MR. HENDERSON: Okay. And I understand this is
7 not something that comes up every day in most people's
8 lives. But you understand both sides are entitled to
9 twelve jurors who can follow all of the law in Tennessee,
10 not just the parts they agree with, but the parts they
11 disagree with, too. And if one side, one juror decides, I
12 can't follow that part of the law, then somebody's not
13 getting a fair trial.

14 JUROR DOZIER: This is a personal belief that
15 I've dealt with for a long time. In my own family and.....

16 MR. HENDERSON: I'm not trying to change your
17 mind, but what I'm saying is, if you can't follow the law
18 of the State of Tennessee, we -- one side or the other
19 needs to know that. It wouldn't be fair -- and if one
20 person's not getting a fair trial, then nobody is. Can you
21 follow the law if it conflicts with your own personal
22 beliefs?

23 JUROR DOZIER: If it came to that point, I don't
24 think I could.

25 MR. HENDERSON: So if it got to the point where

1 you believe the law says this is a case for the death
2 penalty and your personal belief said no, would you stand
3 by your personal beliefs or --

4 JUROR DOZIER: Yes.

5 MR. HENDERSON: -- would you set those aside and
6 follow the law?

7 JUROR DOZIER: I'd have to follow my
8 personal.....

9 MR. HENDERSON: You would then refuse to impose
10 the death penalty even if you saw that under the law and
11 the facts it should be done under the law in the State of
12 Tennessee?

13 JUROR DOZIER: Well, yes, sir.

14 MR. HENDERSON: Submit it, Your Honor, and ask
15 that he be excused for cause.

16 THE COURT: Mr. Johnson.

17 MR. JOHNSON: Mr. Dozier, I'm not trying to
18 change your mind. I understand how people feel about this.
19 I understand the pros and I understand the cons. But what
20 we're saying, it's always fair to have people that are for
21 the death penalty on the jury and it's fair to have people
22 that are against the death penalty. The only thing that
23 we're asking of you is that if you'll consider it based
24 upon the proof that you hear and follow the law.

25 Now, who makes the decision as to what mitigation

1 is?

2 JUROR DOZIER: We do.

3 MR. JOHNSON: You do. Who makes the decision as
4 to whether mitigation outweighs aggravating circumstances?
5 You do. Based upon your moral certainty. So nobody is
6 saying that it's an automatic death penalty if he is
7 convicted of murder in the first degree. What we are
8 asking you is to consider the aggravating circumstances and
9 the mitigating circumstances and base your vote on what you
10 think it is.

11 Now, it's fair to have a fair cross-section of
12 people. Now, can you consider the death penalty if this
13 were the appropriate situation based upon the facts that
14 you hear from that witness stand?

15 JUROR DOZIER: No, sir.

16 MR. JOHNSON: I have nothing further.

17 THE COURT: All right, Mr. Dozier, you're excused
18 for cause. You can step out, please.

19

20 (Juror William Dozier was excused for
21 cause.)

22

23 THE COURT: Let's fill that seat.

24 CLERK: Sheila Halford, H-A-L-F-O-R-D.

25 THE COURT: Ms. Halford, can you stay with us as

1 a guest of the sheriff for a while?

2 JUROR HALFORD: Yes, sir.

3 THE COURT: Thank you. Are you employed?

4 JUROR HALFORD: Yes, sir.

5 THE COURT: Where do you work?

6 JUROR HALFORD: Cheerfield Child Care.

7 THE COURT: Okay. How do you spell that name?

8 JUROR HALFORD: Cheerfield. It's like "Cheer"

9 with "Field" and Child Care.

10 THE COURT: Oh, okay. Good enough for me. You

11 deal with two-year-olds?

12 JUROR HALFORD: No, I deal with three, four, and

13 five-year-olds.

14 THE COURT: Well, if you get on the jury, y'all

15 can compare notes there. Married?

16 JUROR HALFORD: Yes, sir.

17 THE COURT: Husband employed?

18 JUROR HALFORD: Yes, sir.

19 THE COURT: Where?

20 JUROR HALFORD: Roadway Express.

21 THE COURT: Over the road or local?

22 JUROR HALFORD: He's a coordinator.

23 THE COURT: He's what?

24 JUROR HALFORD: Line haul coordinator.

25 THE COURT: Okay. Yes. Is that what they used

1 to call a dispatcher?

2 JUROR HALFORD: Well, he's dispatch but he's -- I

3 don't know. All I know is he's a coordinator.

4 THE COURT: No, but I'm just saying, they change

5 names and don't give you any money for it. That's the

6 reason I asked.

7 JUROR HALFORD: Well, that's true.

8 THE COURT: How long has he been with Roadway?

9 JUROR HALFORD: Twenty-four years.

10 THE COURT: Yeah. Okay. Any children?

11 JUROR HALFORD: Yes, sir.

12 THE COURT: How many?

13 JUROR HALFORD: Two.

14 THE COURT: Ages?

15 JUROR HALFORD: Twenty and seventeen.

16 THE COURT: Thank you.

17 All right, Mr. Henderson.

18 MR. HENDERSON: Thank you, Your Honor.

19 Ms. Halford, how long have you lived here in

20 Shelby County?

21 JUROR HALFORD: Twenty-six years.

22 MR. HENDERSON: Have you been able to hear our

23 questions and answers, speeches from back there?

24 JUROR HALFORD: Yes, sir.

25 MR. HENDERSON: All right. Do you know any of

1 the people involved in this case or anything else about it?

2 JUROR HALFORD: No, sir.

3 MR. HENDERSON: Have you or anybody close to you
4 ever been involved in a criminal case before in any way?

5 JUROR HALFORD: Yes, sir.

6 MR. HENDERSON: Been a victim, witness, or
7 charged with it?

8 JUROR HALFORD: Well, I've been a victim, and I
9 was a witness, and then my nephew was involved in one this
10 year.

11 MR. HENDERSON: Okay. Let's start with you were
12 a victim of a crime.

13 JUROR HALFORD: Yes.

14 MR. HENDERSON: Was that here in Shelby County?

15 JUROR HALFORD: Right. Right after I was
16 married, my house was burglarized.

17 MR. HENDERSON: Did they ever catch anybody?

18 JUROR HALFORD: (Shaking head no.)

19 MR. HENDERSON: All right. And you said you were
20 a witness also?

21 JUROR HALFORD: I had to testify against a
22 robbery that occurred behind my house.

23 MR. HENDERSON: Oh, okay. So you've testified in
24 front of a jury?

25 JUROR HALFORD: No, sir, just the judge.

1 MR. HENDERSON: Okay. And then you had a nephew,
2 I believe you said, that was charged with something?

3 JUROR HALFORD: No, he wasn't charged. He was
4 murdered.

5 MR. HENDERSON: Murdered. Okay. Was that here
6 in Shelby County?

7 JUROR HALFORD: Yes, sir.

8 MR. HENDERSON: How long ago was that?

9 JUROR HALFORD: Two and a half years.

10 MR. HENDERSON: Did they catch anybody in that
11 case?

12 JUROR HALFORD: Yes.

13 MR. HENDERSON: And was it handled in the
14 Criminal Courts here in Shelby County?

15 JUROR HALFORD: Yes.

16 MR. HENDERSON: Do you know who the prosecutor
17 was in the case?

18 JUROR HALFORD: No, I didn't come to court.

19 MR. HENDERSON: Okay. All right. It wasn't me
20 at any rate, okay, as far as you know.

21 JUROR HALFORD: (Shaking head no.)

22 MR. HENDERSON: Is there anything about that case
23 or the other incidents that was handled by lawyers,
24 prosecutors, law enforcement officers, judges, or anybody
25 else that you think would affect your judgment in this

1 case?

2 JUROR HALFORD: Not anything at all.

3 MR. HENDERSON: Did you hear our explanation of
4 the procedure used for imposing the death penalty in
5 Tennessee?

6 JUROR HALFORD: Yes, sir.

7 MR. HENDERSON: If you find yourself a part of a
8 jury and find that this is one of those situations where
9 the law says the punishment shall be death, would you be
10 able to follow that law and vote to impose the death
11 penalty?

12 JUROR HALFORD: Yes.

13 MR. HENDERSON: Mr. Avent. Coastal Corporation.
14 Territory manager. What does a territory manager do?

15 JUROR AVENT: Accounts primarily. East
16 Tennessee, Arkansas, Memphis.

17 MR. HENDERSON: How long have you been with them?

18 JUROR AVENT: January.

19 MR. HENDERSON: Since January?

20 JUROR AVENT: Since January 5.

21 MR. HENDERSON: Okay. All right. And where did
22 you work before that?

23 JUROR AVENT: I was marketing coordinator for the
24 local Sam's Clubs here in town.

25 MR. HENDERSON: Sam's? All right. How long have

1 you lived here in Shelby County?

2 JUROR AVENT: All my life.

3 MR. HENDERSON: Have you or anybody close to you
4 ever been involved in a criminal case before in any way?

5 JUROR AVENT: No.

6 MR. HENDERSON: Did you hear our explanation of
7 the procedure used for imposing the death penalty here in
8 Tennessee?

9 JUROR AVENT: Yes.

10 MR. HENDERSON: If you find yourself a part of a
11 jury who with the other twelve have found the defendant
12 guilty of murder in the first degree beyond a reasonable
13 doubt, find that we have proven at least one statutory
14 aggravating circumstance beyond a reasonable doubt, and
15 also find that that aggravating circumstance outweighs any
16 mitigating evidence in the case, would you be able to vote
17 to impose the death penalty?

18 JUROR AVENT: Absolutely not.

19 MR. HENDERSON: All right. Would it make any
20 difference to you what the law was the judge told you
21 about?

22 JUROR AVENT: (Shaking head no.)

23 MR. HENDERSON: You need to answer, she can't get
24 your --

25 JUROR AVENT: No. No.

1 MR. HENDERSON: Would it make any difference to
2 you what the facts in the case were?

3 JUROR AVENT: No.

4 MR. HENDERSON: So there's no way under any
5 circumstances you would be able to impose the penalty?

6 JUROR AVENT: Absolutely not.

7 MR. HENDERSON: Submit him to the Court --

8 THE COURT: Mr. Johnson.

9 MR. JOHNSON: Mr. Avent, I understand your
10 plight. But you understand how important it is to have
11 opposing views on the jury.

12 JUROR AVENT: Absolutely.

13 MR. JOHNSON: Okay. With that in mind, you can't
14 consider it at all, period?

15 JUROR AVENT: It's not a consideration. It's not
16 an option. It's --

17 MR. JOHNSON: Have you --

18 JUROR AVENT: And I appreciate where you're
19 coming from, too.

20 MR. JOHNSON: Okay. Have you thought about this
21 a considerable amount of time?

22 JUROR AVENT: Sure.

23 MR. JOHNSON: And you've discussed this with
24 friends and --

25 JUROR AVENT: Sure. Wife.

1 MR. JOHNSON: Everybody.

2 JUROR AVENT: Well, not everybody.

3 MR. JOHNSON: Well, I mean everybody near you or
4 close to you.

5 JUROR AVENT: Mmm-hmm (yes).

6 MR. JOHNSON: And they know your views on this
7 particular matter.

8 JUROR AVENT: (Nodding yes.)

9 MR. JOHNSON: I want to tell you that I
10 understand and if you have those particular views, it's
11 nothing we can do to change your mind.

12 JUROR AVENT: No.

13 THE COURT: All right, sir, you're excused. You
14 may step down. Step out the back of the courtroom. He's
15 released.

16

17 (Juror Christopher Avent was excused
18 for cause.)

19

20 THE COURT: Fill the chair.

21 CLERK: Danielle Free, F-R-E-E. First name,
22 D-A-N-I-E-L-L-E.

23 THE COURT: Ma'am, can you stay as a guest of the
24 sheriff for a while?

25 JUROR FREE: Yes, sir.

1 THE COURT: Thank you. Are you employed?
2 JUROR FREE: Yes.
3 THE COURT: Where?
4 JUROR FREE: Wimbledon Sports Plex.
5 THE COURT: Ma'am?
6 JUROR FREE: Wimbledon Sports Plex.
7 THE COURT: Oh. What do you do there?
8 JUROR FREE: I'm a sales representative.
9 THE COURT: Okay. So you sign us up?
10 JUROR FREE: Mmm-hmm (yes).
11 THE COURT: How long you been there?
12 JUROR FREE: I just started in August.
13 THE COURT: Okay. What did you do before that?
14 JUROR FREE: Worked at Fed Ex.
15 THE COURT: And what did you do at Fed Ex?
16 JUROR FREE: In the hub.
17 THE COURT: Okay. All right. Married?
18 JUROR FREE: No.
19 THE COURT: All right. Mr. Henderson.
20 MR. HENDERSON: All right, Ms. Free, have you
21 been able to hear our questions, and answers, and speeches
22 from back there?
23 JUROR FREE: Yes, sir.
24 MR. HENDERSON: Do you know any of the people
25 involved in this case?

1 JUROR FREE: No.

2 MR. HENDERSON: Know anything at all about this
3 case other than what you've heard since you've been in
4 here?

5 JUROR FREE: No.

6 MR. HENDERSON: Have you or anybody close to you
7 ever been involved in a criminal case before? Been a
8 victim of a crime or a witness to one?

9 JUROR FREE: No.

10 MR. HENDERSON: You heard our explanation of the
11 procedure used for imposing the death penalty in Tennessee?

12 JUROR FREE: (Nodding yes.)

13 MR. HENDERSON: If you found the defendant guilty
14 beyond a reasonable doubt of murder in the first degree,
15 found that we've proven an aggravating circumstance beyond
16 a reasonable doubt, and you also find that outweighs any
17 mitigating evidence in the case, would you be able to vote
18 to impose the death penalty?

19 JUROR FREE: Yes.

20 MR. HENDERSON: Mr. Moore, you're with Avery
21 Express; is that right?

22 JUROR MOORE: Yes, sir.

23 MR. HENDERSON: How long have you lived here in
24 Shelby County?

25 JUROR MOORE: About ten years.

1 MR. HENDERSON: Ten years. Have you or anybody
2 close to you ever been involved in a criminal case before
3 in any way?

4 JUROR MOORE: No.

5 MR. HENDERSON: Do you understand our procedure
6 used for imposing the death penalty in Tennessee?

7 JUROR MOORE: Yes.

8 MR. HENDERSON: If you found yourself a part of a
9 jury that found the defendant guilty beyond a reasonable
10 doubt of murder in the first degree, find that we've proven
11 an aggravating circumstance beyond a reasonable doubt, find
12 that that aggravating circumstance outweighs any mitigating
13 evidence in the case beyond a reasonable doubt, would you
14 be able to sign your name to a verdict imposing the death
15 penalty?

16 JUROR MOORE: Yes.

17 MR. HENDERSON: Now, just a few other questions,
18 then. Mr. Johnson has referred to mitigation as being just
19 about anything that you want it to be. The judge will give
20 you a definition of mitigation. Does everybody understand,
21 though, that mitigation has to be based on something in the
22 case. It can't be based on prejudice. Can't he based on
23 stereotypes. It's got to be based on what you hear here in
24 the courtroom. Be your interpretation of it. It's got to
25 be based on something in this case. Everybody understand

1 that?

2 (No verbal response.)

3 Have y'all heard the expression actions speak
4 louder than words?

5 (No verbal response.)

6 Do y'all believe that?

7 (No verbal response.)

8 Have you ever had a lawyer stand up in front of
9 you and say he was going to be brief?

10 (No verbal response.)

11 All right. Well, I'm going to be brief, then. I
12 don't have any further questions and no challenge for
13 cause, Your Honor.

14 THE COURT: All right, Mr. Johnson.

15 MR. JOHNSON: Ms. Ciarlona, I think I passed you
16 the first time around and I'd like to ask you what area of
17 town are you from?

18 JUROR CIARLONI: Hickory Hill.

19 MR. JOHNSON: Okay. And are you a life-long
20 resident of Memphis and Shelby County?

21 JUROR CIARLONI: Almost. Thirty-nine years.

22 MR. JOHNSON: All right. Do you have children?

23 JUROR CIARLONI: Yes.

24 MR. JOHNSON: What are their ages?

25 JUROR CIARLONI: Nineteen, seventeen, and twelve.

1 MR. JOHNSON: Okay. What school do they attend?
2 JUROR CIARLONI: University of Memphis and Kirby.
3 MR. JOHNSON: And you can be fair and impartial
4 in this matter. And you've understood what we've talked
5 about thus far; is that correct?
6 JUROR CIARLONI: Yes.
7 MR. JOHNSON: Mr. Larson, you're from
8 Minneapolis; is that correct?
9 JUROR LARSON: Yes, sir, a suburb.
10 MR. JOHNSON: Did you go to school in
11 Minneapolis?
12 JUROR LARSON: High school, yes.
13 MR. JOHNSON: Okay. Have you thought about -- is
14 this the first time you've thought about the death penalty?
15 JUROR LARSON: No, sir.
16 MR. JOHNSON: Okay. So you've had -- you've been
17 for the death penalty just about all your life, or how is
18 that?
19 JUROR LARSON: I am a Christian and my beliefs
20 are based on the word of God. And that's based --
21 MR. JOHNSON: And that's what it's based on, your
22 agreement with the death penalty; is that correct?
23 JUROR LARSON: Yes. Primarily, yes.
24 MR. JOHNSON: And what area of town do you live
25 in now, sir?

1 JUROR LARSON: East Memphis.

2 MR. JOHNSON: And how long have you lived in the
3 east Memphis area? Since you've been here?

4 JUROR LARSON: Yes, sir.

5 MR. JOHNSON: Okay. And I think you teach; is
6 that correct?

7 JUROR LARSON: Yes, sir.

8 MR. JOHNSON: And what grades do you teach?

9 JUROR LARSON: High school. This year I have
10 taught as low as third grade P.E.

11 MR. JOHNSON: And you've understood what we've
12 talked about thus far; is that correct?

13 JUROR LARSON: Yes, sir.

14 MR. JOHNSON: Any of your family or anything law
15 enforcement or anything of that nature?

16 JUROR LARSON: No, sir.

17 MR. JOHNSON: Any close friends involved in law
18 enforcement?

19 JUROR LARSON: No, sir.

20 MR. JOHNSON: I don't know if I asked that
21 question to the whole panel, but has anybody got any close
22 friends or relatives that are involved in the police
23 department or anything?

24 Yes, sir, Mr. Moore.

25 JUROR MOORE: Yes, I have a cousin a police

1 officer.

2 MR. JOHNSON: Okay. And he's right here on the
3 City of Memphis Police Department?

4 JUROR MOORE: Yeah.

5 MR. JOHNSON: Do you know how long he's been on
6 there?

7 JUROR MOORE: I think about five years.

8 MR. JOHNSON: And do you talk about cases with
9 him or anything?

10 JUROR MOORE: No.

11 MR. JOHNSON: Okay. So you don't discuss
12 anything?

13 JUROR MOORE: No.

14 MR. JOHNSON: So nothing about that would affect
15 you in this particular matter; is that correct?

16 JUROR MOORE: (Shaking head no.)

17 MR. JOHNSON: Okay. But you can be fair and
18 impartial in this matter, Mr. Larson, and consider the
19 mitigating circumstances and aggravating circumstances; is
20 that correct?

21 JUROR LARSON: Yes, sir.

22 MR. JOHNSON: Now, in a first degree murder case
23 would you automatically, if a person is convicted of murder
24 in the first degree, would you automatically vote for the
25 death penalty?

1 JUROR LARSON: No, sir.

2 MR. JOHNSON: If that person was guilty?

3 JUROR LARSON: It wouldn't be the only option,

4 no.

5 MR. JOHNSON: Okay. You would base your views on

6 what you hear in the sentencing phase; is that correct?

7 JUROR LARSON: Yes, sir.

8 MR. JOHNSON: Mitigating and -- so it's not

9 automatic with you?

10 JUROR LARSON: Right.

11 MR. JOHNSON: Okay. Ms. Red, are you a life-long

12 resident of Memphis and Shelby County?

13 JUROR RED: No, I'm not.

14 MR. JOHNSON: Okay. Where are you originally

15 from?

16 JUROR RED: Mississippi.

17 MR. JOHNSON: And how long have you been in this

18 area?

19 JUROR RED: About twenty years.

20 MR. JOHNSON: Twenty years? And what area of

21 town do you live in?

22 JUROR RED: In Stonebridge.

23 MR. JOHNSON: Okay. And how long have you lived

24 in the Stonebridge area?

25 JUROR RED: About five years.

1 MR. JOHNSON: Okay. And you can be fair and
2 impartial in this matter?

3 JUROR RED: (Nodding yes.)

4 MR. JOHNSON: And you've understood what we've
5 talked about thus far?

6 JUROR RED: Yes.

7 MR. JOHNSON: Okay. Ms. Hall, I think you are
8 the two-job worker; is that correct?

9 JUROR HALL: Yes, sir.

10 MR. JOHNSON: And this is a little break for you,
11 isn't it?

12 JUROR HALL: Yes, sir.

13 MR. JOHNSON: What area of town do you live in?

14 JUROR HALL: South Memphis.

15 MR. JOHNSON: And how long have you lived in that
16 area?

17 JUROR HALL: Seven and a half years.

18 MR. JOHNSON: Are you a life-long resident of
19 Memphis and Shelby County?

20 JUROR HALL: Yes, sir.

21 MR. JOHNSON: What school you attend here?

22 JUROR HALL: South Side.

23 MR. JOHNSON: And you've understood everything
24 we've talked about, the mitigation and aggravating
25 circumstances?

1 JUROR HALL: Yes, sir.

2 MR. JOHNSON: Is there any case that you would
3 automatically vote for the death penalty?

4 JUROR HALL: No, sir. I -- just based upon the
5 facts.

6 MR. JOHNSON: Okay. Is there any case anybody
7 would automatically vote for the death penalty? Any kind,
8 worst-case scenario. Is there anything, any case anybody
9 would automatically vote for the death penalty
10 automatically?

11 (No response.)

12 MR. JOHNSON: Ms. Halford, are you a life-long
13 resident of Memphis and Shelby County?

14 JUROR HALFORD: No, sir.

15 MR. JOHNSON: Where are you originally from?

16 JUROR HALFORD: I'm from -- well, I'm from
17 Tennessee, from Yorkville, Tennessee.

18 MR. JOHNSON: Pardon me?

19 JUROR HALFORD: Yorkville, Tennessee. Up next to
20 Dyersburg, a little country town.

21 MR. JOHNSON: Is that -- okay. I was just going
22 to say I've never heard of Yorkville and I've been here all
23 my life.

24 JUROR HALFORD: Nobody has. I'm a country girl.

25 MR. JOHNSON: It's okay. It's up that way. Is

1 that around close to UT?

2 JUROR HALFORD: It's in Gibson County.

3 MR. JOHNSON: Gibson County?

4 JUROR HALFORD: Right.

5 MR. JOHNSON: Okay. And --

6 THE COURT: Is that close to Ridgely?

7 JUROR HALFORD: Ridgely, right.

8 THE COURT: You're not country, they are.

9 MR. JOHNSON: You've understood what we've talked
10 about thus far. And you heard us back there when we were
11 talking; is that correct?

12 JUROR HALFORD: Yes, sir.

13 MR. JOHNSON: So there's nothing about people
14 being police -- close relations to officers or didn't know
15 anybody in the prosecutor's office or anything like that?

16 JUROR HALFORD: No, sir.

17 MR. JOHNSON: So we may not ask you, but we want
18 you to expound on that. And all you have to do is just
19 raise your hand and tell us if there's anything bothering
20 you.

21 Has anybody heard about this case? Have you
22 heard about it?

23 (No verbal response.)

24 Ms. Red, have you heard about it?

25 JUROR RED: Seems like I remember just the

1 general things on the news.

2 MR. JOHNSON: Mr. Larson, have you heard about

3 it?

4 JUROR LARSON: Just what I've heard today.

5 MR. JOHNSON: Okay. And you can be fair and

6 impartial in this matter; is that correct?

7 JUROR LARSON: Yes, sir.

8 MR. JOHNSON: Mrs. Free, are you a life-long

9 resident of Memphis and Shelby County?

10 JUROR FREE: No, about eighteen years.

11 MR. JOHNSON: About eighteen years? Okay. And

12 what area of town you live in, ma'am?

13 JUROR FREE: East Memphis.

14 MR. JOHNSON: Okay. And have you been living in

15 East Memphis eighteen years?

16 JUROR FREE: (Nodding yes.)

17 MR. JOHNSON: Did you get here with your parents

18 and so forth?

19 JUROR FREE: (Nodding yes.)

20 MR. JOHNSON: Okay. And where are you originally

21 from? Do you remember? Or do you know? Excuse me.

22 JUROR FREE: Well, I was born in Georgia.

23 MR. JOHNSON: Georgia?

24 JUROR FREE: We moved around a lot.

25 MR. JOHNSON: And a military family?

1 JUROR FREE: Mmm-hmm (yes).

2 MR. JOHNSON: And you've understood what we've

3 talked about thus far?

4 JUROR FREE: Yes.

5 MR. JOHNSON: Mr. Moore?

6 JUROR MOORE: Yes.

7 MR. JOHNSON: Are you a life-long resident of

8 Memphis and Shelby County?

9 JUROR MOORE: No.

10 MR. JOHNSON: Where are you originally from?

11 JUROR MOORE: From Chicago.

12 MR. JOHNSON: Okay. And how long have you been

13 in the Memphis and Shelby County area?

14 JUROR MOORE: Since I was about ten.

15 MR. JOHNSON: About ten years old?

16 JUROR MOORE: Yes, sir.

17 MR. JOHNSON: So you went to school here; is that

18 correct?

19 JUROR MOORE: Yes, sir.

20 MR. JOHNSON: What school did you attend?

21 JUROR MOORE: Melrose.

22 MR. JOHNSON: Okay. Are you still in the Orange

23 Mound, Tennessee area?

24 JUROR MOORE: Yes.

25 MR. JOHNSON: Okay. That's what they call it,

1 Orange Mound, Tennessee?

2 JUROR MOORE: Yeah.

3 MR. JOHNSON: And you've understood what we've
4 talked about thus far; is that right?

5 JUROR MOORE: Yes.

6 MR. JOHNSON: Okay. I have nothing further.

7 THE COURT: All right. Let's have challenges.

8

9 (Peremptory challenges were submitted
10 to the Court.)

11

12 THE COURT: Ms. Hallum, you may step down. You
13 may step out of the courtroom, please, ma'am. Ask her to
14 wait outside until she's discharged.

15

16 (Juror Karen Hallum was excused
17 peremptorily.)

18

19 THE COURT: Mr. Larson, will you take her place.

20

21 (Peremptory challenges were submitted
22 to the Court.)

23

24 THE COURT: Mr. Burks, you can step down, please,
25 sir.

1 (Juror Robert Burks was excused
2 peremptorily.)

3
4 THE COURT: Ms. Red, will you take his place?
5 Challenges again, please.

6
7 (Peremptory challenges were submitted
8 to the Court.)

9
10 THE COURT: Mr. Larson, you may step down.

11
12 (Juror Mark Larson was excused
13 peremptorily.)

14
15 THE COURT: Ms. Hall, will you take his place,
16 please?

17 Challenges again, please.

18
19 (Peremptory challenges were submitted
20 to the Court.)

21
22 THE COURT: Those of you on the front row remain
23 seated. Those of you in the jury box stand and raise your
24 right hands, please.

25 Swear in the jury.

1 CLERK: Do you solemnly swear or affirm to well
2 and truly try the issue of --

3 THE COURT: Hold it. Hold it. I've decided not
4 to do that yet. Y'all have a seat.

5 If I swear you in -- You're accepted by both
6 sides. Okay? But if I swear you in, then I've got to lock
7 you up tonight and I don't want to fool with that.

8 (Laughter)

9 What we're going to do is this. I'm going to
10 select two alternate jurors aside from what we've already
11 got, and then I'm going to have you back here at 10:00 in
12 the morning with your bags. And you vote if you haven't
13 already voted. Okay?

14 All right. Now, don't everybody start leaving
15 because if somebody gets kicked off up here, y'all are in
16 the front row.

17 Okay. Ms. Halford, step up there and sit next to
18 Ms. Albert.

19 Now, let me tell you what's going on here,
20 Ms. Halford. You're seated next to the main body of the
21 jury in what we call the alternate juror's chair. And the
22 duties of an alternate juror are to listen to the lawyers
23 make their opening statements, read the indictment, and
24 then they'll start putting on witnesses. And witnesses
25 will come in here one at a time and if there's any physical

1 evidence, then you get to see all that. And you listen at
2 the end of the case, which will be several days away, to
3 the arguments of the lawyers, and then I'll read the law
4 that applies to the case.

5 At that point, just before the jury goes back to
6 start deliberating, if everybody's healthy or for any other
7 reason has not been disqualified, then I'm going to send
8 you home. But you must be ready to replace a juror if the
9 need arises. Ever a bridesmaid and never a bride.

10 Sometimes. Now, you understand the duties?

11 JUROR HALFORD: Yes, sir.

12 THE COURT: Challenges.

13
14 (Peremptory challenges were submitted
15 to the Court.)

16
17 THE COURT: Alternate number one is acceptable.
18 I'm going to pick one more alternate.

19 Ms. Free. Do you understand the duties of an
20 alternate juror?

21 JUROR FREE: Yes, sir.

22 THE COURT: Except never a bride, because we
23 don't want to do that to you.

24 Challenges.

25

1 (Peremptory challenges were submitted
2 to the Court.)
3
4 THE COURT: You may step down, Ms. Free. You're
5 excused.
6
7 (Juror Danielle Free was excused
8 peremptorily.)
9
10 THE COURT: Mr. Moore, will you step up there,
11 please, sir.
12 Do you understand the duties of an alternate
13 juror?
14 JUROR MOORE: Yes.
15 THE COURT: Challenges, please.
16
17 (Peremptory challenges were submitted
18 to the Court.)
19
20 THE COURT: Those jurors on the outside are
21 excused, if you've already released them.
22 Alternate number two is accepted.
23 Those of you in the back of the courtroom are
24 ordered back here at 10:00 in the morning to the area of
25 the orange chairs from whence you came until I release you.

1 You got it? Ten o'clock, on time. We like punctuality.

2

3

* * * * *

4

5

(The remaining venire was excused.)

6

7

THE COURT: Those of you in this area will come
8 back in my jury room in the morning at 10:00. You got it?
9 Bring your bags. In the meantime, don't discuss this case
10 with anybody or allow anybody to discuss it with you. I
11 will swear you in in the morning individually, jury, and
12 alternates.

13

14

15

16

17

18

19

20

We'll begin taking testimony tomorrow. That will
be day one for us. When you get home, somebody's going to
ask you, what kind of case are you on. Well, the judge
said I'd get in trouble if I tell you. Because as sure as
you do, somebody in your household is going to say, you
know, I was watching Court TV about a month ago and I saw
something out Akron, Ohio -- You see what I'm saying? We
don't need all that.

21

22

23

24

25

So step out. I'll see you at 10:00 in the
morning, on time, back there in my jury room. Always step
out this door. If you've left something out there, the
deputies will get it for you. Okay? Just step through
that door.

1 (The jury retired from open court and
2 the following proceedings were had.)

3
4 THE COURT: Well, that's a good looking jury for
5 both sides. I'm surprised and impressed that we got a jury
6 that quick.

7 What have you got back there?

8 BAILIFF: I've got a total of twenty-nine. And
9 one of the gentlemen, guys that was sitting here, Henry
10 Grayson, he's got heart problems. He's going to call a
11 cab. We had to give him some nitroglycerine.

12 THE COURT: That's fine. That's fine. Just pull
13 his card. We won't worry about him being back at all.

14 BAILIFF: Yes, sir.

15 THE COURT: Got it?

16 BAILIFF: Yes, sir.

17 THE COURT: Do not open that door until the
18 defendant is out.

19 All right. Let's adjourn court till 9:30 in the
20 morning.

21
22 (Court was adjourned at 5:45 P.M.,
23 continuing the trial of this cause to
24 Tuesday, November 3, 1998, at 11:30
25 A.M. at which time the following

1 proceedings were had out of the
2 presence of the jury.)

3
4 THE COURT: Bring in the defendant.

5
6 (The defendant was brought into the
7 courtroom.)

8
9 THE COURT: The defendant's present. Bring in
10 the jury.

11 MR. HENDERSON: Your Honor, before they bring
12 them in --

13 THE COURT: Hold it.

14 MR. HENDERSON: -- could I address the Court
15 about the non-testifying members of the family of the
16 victim coming in? There are some members of the family who
17 are not going to be testifying at either stage of the trial
18 that would like to come in and watch the proceedings if
19 that's all right with the Court.

20 THE COURT: Permissible after we get the jurors
21 sworn, the deputies sworn, reading of the indictments, and
22 the plea.

23 MR. HENDERSON: Okay.

24 THE COURT: At that point before you begin
25 opening statements, I will allow that. But right now,

1 we're sort of cluttered. I've got my deputies that will be
2 attending the jury at different times during this trial all
3 in the courtroom and I need to have them dispersed. So
4 that's when we'll do it.

5 MR. HENDERSON: Okay. I did want to advise
6 counsel that there's one -- the first witness actually,
7 Ms. Margie Floyd, who is the mother of the victim, she
8 won't be in until she does testify, but she may be called
9 back as a witness if there is a penalty phase. Pursuant to
10 Rule 615 of the Rules of Evidence, she's the one person we
11 are designating for our side to be permitted to be in the
12 courtroom. The rule of exclusion, therefore, wouldn't
13 apply to her under Rule 615.

14 THE COURT: Well, under the rules, then, it's
15 permissible. I'll allow it.

16 MR. HENDERSON: Thank you. But I let them know
17 so they didn't worry about her. She won't be in here until
18 she does testify, but she may be called back at the penalty
19 phase.

20 Thank you.

21 THE COURT: All right. Ready for the jury?

22 MR. HENDERSON: Yes, Your Honor.

23 THE COURT: Bring in the jury.

24

25

1 (The jury and alternates were sworn and
2 sequestered and officers were sworn to
3 take charge of the jury. The
4 indictments were read by Julie Mosley
5 and pleas of not guilty were entered by
6 Ronald Johnson.)

7
8 THE COURT: State, make an opening statement?

9 MR. HENDERSON: Yes, Your Honor, if the Court
10 please.

11 THE COURT: You may proceed.

12 MR. HENDERSON: Thank you.

13 Ricci Ellsworth believed that people could
14 change. She thought the defendant had changed, and because
15 of that, she lost her life.

16 She knew the defendant from before. She had
17 dated him after she was divorced from her husband. In
18 January of 1989 he broke into her house, assaulted her, and
19 raped her. He was arrested, charged, and pled guilty to
20 burglary, aggravated assault, and rape. He was sent to the
21 state penitentiary for his crimes against Ricci Ellsworth.

22 But she thought he had changed. Even while
23 serving those years in the penitentiary she thought he had
24 changed. She didn't know that even while he was serving
25 that time, he was plotting on killing her when he got out.

1 He told fellow inmates he was going to kill her when he got
2 out. And when he got out, he killed her.

3 Ms. Ellsworth, mother, and wife, she had
4 remarried her husband she had divorced. She believed he
5 had changed, too, and apparently he had. She worked at the
6 Memphis Inn, a motel out east, Macon Cove, out in the
7 eastern part of the city. She was the night auditor or
8 night manager, whatever you want to call it, she worked for
9 Ms. Cook out there.

10 Ms. Ellsworth worked alone at night out there,
11 from 11:00 at night till 7:00 in the morning. She was
12 alone but she worked behind a secured door, a door that you
13 had to have a code to get in. And there was a window where
14 you come up to check in or check out. So she was safe.
15 But she thought he had changed.

16 So when he came up there the night of February
17 the 7th, she let him in. In the back area or in the office
18 area of this motel there's two or three rooms, the area
19 where the clerk stands behind the counter, an office, and
20 in the very back a really pretty tiny bathroom. It's like
21 a four-foot-nine by six feet or something for the office
22 staff to use.

23 Somewhere back in those back rooms, in that
24 bathroom, the defendant assaulted and brutally killed Ricci
25 Ellsworth. He then wrapped her dead, bleeding body in

1 sheets that were stored in the office space and put her in
2 a maroon Honda, which he had driven there and which he had
3 stolen back in January from Mr. and Mrs. Featherston.

4 He left the motel and drove to we don't know
5 where. He drove her to somewhere in the dark and took a
6 shovel with him. And in the dark he dug a hole in the
7 ground and buried her. Because just a few hours later he
8 arrived at his brother's house in north Mississippi just
9 south of Memphis. The car was muddy, his shoes were muddy,
10 and he had a shovel with him. His brother and his
11 brother's girlfriend saw that. They also saw in the back
12 seat of that maroon Honda what appeared to be blood.

13 At that point the defendant disappears. He left
14 the job he was working at, left his brother, disappeared,
15 for almost two months.

16 Meanwhile, back at the motel people were
17 beginning to notice that the clerk is not there. People
18 are ready to check out, go to the front desk and they can't
19 find the clerk. Nobody can find the clerk. Ever. Some
20 people just check out and leave the room -- their key in
21 the room. Some people just slide the key up underneath the
22 night tray. But an employee of one of the local railroads
23 who uses this hotel to put their crews up waiting between
24 trains is trying to get a hold of the clerk, too. They
25 need to get a crew call, need a wake-up call. So nobody

1 answers at the motel. So he drives down there. Find out
2 what's wrong. Maybe the phones are messed up or something.
3 He's going to see what's wrong.

4 He arrives and when you open the front door, the
5 night door, you don't see anything wrong because the front
6 office is fairly undisturbed. But he hears water running
7 in the back. He thinks, well, maybe she's back in the back
8 and he starts towards the back. And then he sees the
9 blood. And he thinks this is not the place for me, backs
10 out, and goes for help.

11 As it happens he runs into two Shelby County
12 sheriff's deputies leaving Denny's Restaurant. It's in the
13 city but he tells the sheriff's officers because they're
14 officials. They go to the scene. They think maybe it's
15 just some sort of misunderstanding. They go there, and
16 they hear the water running, and they see the blood. They
17 go to notify the manager who lives on premises and
18 immediately realize that something is seriously wrong.
19 They call for the rest of the police department. This
20 begins the investigation.

21 The defendant's developed as a suspect pretty
22 quickly since he had hurt her before. He is tied to the
23 stolen automobile. A broadcast is put out, something
24 called the NCIC, to all law enforcement agencies to be on
25 the look-out for this car. It's stolen and hold the

1 occupant for questioning in a homicide.

2 Almost two months later the defendant, still
3 driving that stolen Honda, picked up a hitch-hiker and he's
4 driving through a pretty part of the country, rural
5 Indiana, Johnson County, near a place called Franklin,
6 Indiana. But he's speeding. Sort of a gray-looking
7 morning. There's a sheriff's deputy, been on the force, I
8 think, about a year at that point, running radar, giving
9 out traffic tickets for people who speed. And the
10 defendant goes by and going too fast.

11 So this young officer makes what starts out as a
12 routine traffic stop for a speeding ticket. Nine or ten
13 o'clock in the morning, out on a rural highway. He stops
14 the defendant and when he checks the car, imagine the
15 surprise he felt when his computer comes back, car stolen,
16 hold occupants for questioning in a homicide for the
17 Memphis Police Department.

18 He calls for back-up and they do hold the
19 defendant. And more importantly they seize the automobile,
20 lock it up in their garage, and call the Memphis Police
21 Department where Detectives Shemwell and others are still
22 trying to find Ricci and trying to find the defendant. The
23 defendant's now found for them.

24 They immediately go to Indiana. They notice
25 suspicious stains in the back seat of the car. They have

1 some preliminary tests done and have the cuttings or
2 samples from the motel, a bloody towel, a towel that is
3 described as a red towel but in fact it's a white towel
4 soaked red, a sample from that, a sample from the back seat
5 of the automobile that the defendant is driving. They send
6 it to the FBI crime laboratory in Washington D. C. The
7 plan is to compare the DNA from those blood samples to see
8 if it's Ricci Ellsworth's blood. The problem, of course,
9 is they don't have Ricci to get any blood from. How do you
10 -- what do you compare it with? How do you compare DNA
11 when someone has gotten rid of the body?

12 The answer is in genetics. Genetics. DNA. And
13 they'll describe it much better than I can what it actually
14 is. But we get half of our DNA from our father and half
15 from our mother. Her father is deceased but her mother is
16 still alive, Margie Floyd. In fact, you'll hear from her.
17 Margie Floyd is still alive and she comes to Memphis and
18 gives a sample of her blood, which then goes to the lab,
19 the FBI lab in Washington, and they compare the blood from
20 the scene, the bloody scene, the bathroom, with the
21 mother's DNA. They compare the blood samples from the back
22 seat of the stolen car the defendant was driving with the
23 mother's DNA. And depending which population you're
24 talking about, the odds on it being Ricci's blood is
25 upwards of 15 million to one. The scene at the motel, the

1 back seat of the car is Ricci's blood.

2 Ricci believed that people can change. She
3 thought the defendant had changed. She let him in because
4 she trusted him and he killed her.

5 We'll be ready to start that proof as soon as the
6 Defense has a chance to tell you what you they think the
7 proof will show. Thank you.

8 THE COURT: Mr. Johnson, do you care to make an
9 opening statement?

10 MR. JOHNSON: Good morning. As I pointed out
11 earlier, what I say and what the other attorneys say is
12 just lawyer talk. You will get it from the witness stand.
13 There's always two sides to everything. Get your
14 information from this witness stand.

15 As to how the person got in the Memphis Inn, we
16 don't know. We don't know. As to whether there was a
17 scuffle in the Memphis Inn inside one of the rooms, we
18 don't know. Mr. Rimmer was stopped in a rural part of Ohio
19 in a car that was not his. He came back here, was brought
20 back here.

21 I'm not asking to you speculate about what
22 happened, but I want you to get it from this witness stand.
23 And you have to always remind yourself when you're talking
24 about a murder trial, where is the body.

25 As to the DNA, as you know, a part from your

1 mother and part from your father. The father's deceased.
2 You have to make the determination as to whether the DNA
3 matches based upon what you hear from here.

4 I'm going to ask you to keep an open mind in this
5 and don't get the information from me or Mr. Henderson.
6 Get it from here.

7 THE COURT: What I'm going to do at this time,
8 I've had some legal pads brought up and some pencils and I
9 will offer them to you. If during the trial you want to
10 make notes because of the large volume of witnesses, then
11 you're welcome to do that.

12 At this time you'll step from the courtroom into
13 your jury room. Don't discuss the case among yourselves or
14 allow anyone to discuss it with you. The deputy will bring
15 your pads and pencils and when you come back in, we'll
16 begin hearing testimony.

17 Step out at this time.

18
19 (A recess was had after which the
20 following proceedings were had out of
21 the presence of the jury.)
22

23 THE COURT: Bring in the defendant.
24
25

1 (The defendant was brought into the
2 courtroom.)

3
4 THE COURT: The defendant's present. Bring in
5 the jury.

6 MR. HENDERSON: Your Honor, could I make a
7 request before they come in?

8 THE COURT: Hold it.

9 MR. HENDERSON: I apologize. But there are some
10 members -- members of the family are in here. I believe
11 there are some friends of the family or friends of the
12 victim in this case would also like to attend and watch.
13 Could we get the Court's permission --

14 THE COURT: When I get into the trial a little
15 further I'll consider it.

16 MR. HENDERSON: Thank you, Your Honor.

17 THE COURT: That was my order.

18 MR. HENDERSON: I understand. That's why I'm
19 addressing Your Honor and not --

20 THE COURT: And thank you. Now are we ready for
21 the jury?

22 MR. HENDERSON: Yes, sir.

23 THE COURT: Bring in the jury.
24
25

1 (The jury returned to open court and
2 the following proceedings were had.)

3
4 THE COURT: Call your first witness.

5 MS. MOSLEY: Margie Floyd.

6

7 STATE'S PROOF

8

9 MARGIE FLOYD was called and having been duly
10 sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. MOSLEY:

13 Q. Ma'am, could you please state your name and spell
14 your last name for the court reporter, please.

15 A. Floyd, F-L-O-Y-D.

16 Q. And your first name?

17 A. Margie.

18 Q. And what do you do, Ms. Floyd?

19 A. I'm a housewife.

20 Q. And where do you live?

21 A. Florence, Alabama.

22 Q. Did you know Ricci Ellsworth?

23 A. My daughter.

24 Q. She's your daughter?

25 A. Yes.

1 Q. How old was Ricci?
2 A. 45.
3 Q. When is the last time you saw Ricci?
4 A. Right after her birthday, January the 28th. We
5 had dinner in Corinth. They had a surprise party for us.
6 Q. And what year was that, ma'am?
7 A. '97.
8 Q. Okay. So about a year and a half ago?
9 A. Yes.
10 Q. How many children do you have, Ms. Floyd?
11 A. Four daughters.
12 Q. Where are the other three daughters?
13 A. Two in Memphis and one in Athens.
14 Q. Athens, Alabama?
15 A. Yes.
16 Q. Okay.
17 MS. MOSLEY: Could I pass this to the witness,
18 please?
19 MR. JOHNSON: May we approach the bench, Your
20 Honor?
21 THE COURT: Sure.
22
23 (A bench conference was held as
24 follows.)
25

1 MR. JOHNSON: Your Honor, I'm going to object to
2 showing a picture --

3 THE COURT: She can't hear you.

4 MR. JOHNSON: I'm objecting to him showing a
5 picture -- if I may turn this around.

6 THE COURT: Yeah, sure.

7 MR. JOHNSON: I'm objecting to them showing a
8 picture while the deceased is alive.

9 THE COURT: And the basis?

10 MR. JOHNSON: State v. Beckham. I don't think
11 it's relevant to any probative issue.

12 THE COURT: Isn't there a later case than State
13 v. Beckham?

14 MR. JOHNSON: Well, there seems to be a mixture
15 of opinion as to --

16 THE COURT: No, I'm talking about the latest
17 case.

18 MR. JOHNSON: Yes, sir. Yes, sir.

19 THE COURT: Okay. What does it say?

20 MR. JOHNSON: It states that it can be used to
21 show that a person was in being from my understanding in
22 that particular case. But I'm stating on the record that I
23 don't think it's relevant to any issue in this particular
24 cause.

25 THE COURT: Okay --

1 MR. JOHNSON: Because we don't know if she is
2 deceased or not.

3 THE COURT: Well, that's what the indictment
4 says.

5 MR. JOHNSON: All right, sir.

6 THE COURT: The burden of proof is on them.

7 You may respond. You have to get over there
8 where they can hear you now.

9 MS. MOSLEY: Your Honor, obviously that is the
10 question at issue here. We have to establish that she was
11 alive before we can establish that she's dead. So, I mean,
12 it's an essential issue in the facts.

13 THE COURT: Is this for ID or evidence?

14 MS. MOSLEY: Well, it would be for both, Your
15 Honor, for identification purposes and for evidence to show
16 that she was a living person in being.

17 MR. HENDERSON: Your Honor, in this case beyond
18 those like in Beckham, we don't have a morgue photo. The
19 only way we can make sure everybody's talking about the
20 same person is with this picture.

21 THE COURT: Well, yeah. And the first line of
22 cases came out of that area, that was Judge Barker, I
23 believe, who is now a Supreme Court Justice and has seen
24 the error of his ways. I'm saying that because he may read
25 this.

1 Anyway, objection is overruled and I'll let it
2 in.

3 MS. MOSLEY: Thank you, Judge.

4 THE COURT: Okay.

5

6 (Said bench conference was concluded.)

7

8 BY MS. MOSLEY:

9 Q. Ms. Floyd, can you tell us and the jury what it
10 is you have there?

11 A. A picture of Ricci.

12 Q. Is that the way Ricci looked about the last time
13 you saw her?

14 A. Yes, it is. It's not a very flattering picture.
15 She was prettier than this.

16 MS. MOSLEY: Your Honor, I'd ask that be marked
17 as an exhibit and moved into evidence at this time.

18 THE COURT: Mark it as Exhibit Number 1 into
19 evidence, testimony of Mrs. Margie Floyd.

20

21 (State's Exhibit Number 1 was marked
22 and filed.)

23

24 BY MS. MOSLEY:

25 Q. Ms. Floyd, how often did you talk to Ricci?

1 A. She would call about every two weeks. In fact,
2 that week she called me twice but it was just to talk. And
3 nothing that was important.

4 Q. Okay. So how often did you talk when she called?

5 A. How often?

6 Q. How long. I'm sorry.

7 A. Oh. My husband called her my long-winded one.
8 About an hour.

9 Q. So a couple times a month for an hour or so at a
10 time?

11 A. At least.

12 Q. Have you talked to her at all since February the
13 7th of 1997?

14 A. Oh, no, no.

15 Q. Heard anything from her at all?

16 A. No.

17 Q. Would you have?

18 A. Oh, yes.

19 Q. If she was able?

20 A. Oh, yes.

21 Q. Did you-all do anything yourselves to help try to
22 find Ricci?

23 A. No, we were asked not to.

24 Q. You were asked not to?

25 A. Right.

1 Q. Who asked you not to?

2 A. The detectives.

3 Q. Anybody offer to help you try to find her?

4 A. A psychic told me where her body was buried. But

5 being a staunch Methodist I don't go into -- for psychics.

6 But she said she was buried around Arkabutla Lake.

7 Q. Did you ever come down here and give any blood?

8 A. Yes, I did.

9 Q. What was your understanding of why you were doing

10 that?

11 A. To match the blood in the car to see if she was

12 my child. And it turned out that, of course, it did match.

13 Q. Okay. To your knowledge did your other daughters

14 have any knowledge or familiarity with the defendant in

15 this matter?

16 A. They knew him but not any more than just meeting

17 him years and years and years ago and not seeing him since.

18 Q. Was Ricci a trusting person?

19 A. Yes.

20 Q. Did she believe people could change?

21 A. Pardon?

22 Q. Did she believe people could change?

23 A. Oh yes. She thought he had become a Christian.

24 Q. When you say "he", who do you mean?

25 A. Mike Rimmer. She called me and told me that.

1 Q. She thought he had changed.
2 A. Thought he had become a Christian.
3 Q. Thank you, Mrs. Floyd.
4 A. Are you through with me?
5 MS. MOSLEY: Yes, ma'am.
6 THE COURT: No. Oh, she is but --
7 THE WITNESS: Oh, okay. Sorry.
8 THE COURT: That's all right.
9 Mr. Johnson, do you want to cross-examine her?

10
11 **CROSS-EXAMINATION**

12 **BY MR. JOHNSON:**

13 Q. Ms. Floyd, I'm Ron Johnson. I represent Michael
14 Rimmer.
15 A. Yes.
16 Q. I'll have to ask you some questions.
17 A. Surely.
18 Q. You said she called you and told you that
19 Mr. Mike Rimmer had changed?
20 A. Had become a Christian.
21 Q. He had become a Christian?
22 A. Yes.
23 Q. Had she being seeing him that you know of?
24 A. Yes, she had.
25 Q. She had been seeing him. And about what time was

1 this?

2 A. Oh, goodness, I don't know. Some years ago.

3 Q. Okay. This was after he had gotten out of --

4 A. No, no, no. It was while he was in jail.

5 Q. Okay. And she talked to him while he was in
6 jail?

7 A. She was -- she was quite active in a prison
8 ministry. In fact, she baked 25 pies every Christmas for
9 the prison ministry through her church. Bolton Full
10 Gospel.

11 Q. And you're stating that she saw him in prison; is
12 that what you're saying?

13 A. Yes, uh-huh.

14 Q. And she went to see him in prison?

15 A. I don't know how often. I don't know how many
16 times. But, yes, she did.

17 Q. And on those calls that she calling you, did she
18 ever mention him during those calls?

19 A. No, he wasn't important in our conversations.

20 Q. Okay.

21 MR. JOHNSON: I have nothing further.

22 THE COURT: Any redirect?

23 MS. MOSLEY: No, sir.

24 THE COURT: Now we're through with you. You can
25 step down and go sit back there in the back if you want to.

1 WITNESS EXCUSED

2
3 THE COURT: Approach bench just a minute.

4
5 (A bench conference was held as
6 follows.)

7
8 THE COURT: The next witness should last about
9 how long?

10 MR. HENDERSON: Probably half an hour or so.

11 THE COURT: Well, I think I'll send them down,
12 number one, to eat, number two, to put their bags where
13 they need to be. So why not come back about, what, about
14 1:45?

15 MR. HENDERSON: That's fine.

16 THE COURT: Then we'll be ready for the rest of
17 our proof, with periodic breaks. Okay.

18
19 (Said bench conference was concluded.)

20
21 THE COURT: The witness will be a little longer.
22 As a result of that we have to make a decision about
23 whether you eat or whether you stay here for another hour
24 or so and listen to a witness. And I'm making that
25 decision for you. We're going to send you down to your

1 dorm on the second floor.

2 They got their bags with them?

3 BAILIFF: Yes, sir.

4 THE COURT: Well, carry your bags and you'll eat
5 lunch while you're down there. I have no idea where it's
6 coming from. I think they catered it or something. But,
7 anyway, in the meantime don't discuss the case among
8 yourselves, allow anyone to discuss it with you. Put your
9 names on your pad. You can leave them in the jury room.
10 That's a secure area for you. And you can step out at this
11 time.

12
13 (A recess was had after which the
14 following proceedings were had in the
15 presence of the jury.)

16
17 THE COURT: Call your next witness.

18 MR. HENDERSON: Thank you, Your Honor. Call
19 Mr. Donald Ellsworth.

20
21 DONALD EUGENE ELLSWORTH was called and having
22 been duly sworn, was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MR. HENDERSON:

25 Q. Will you tell us your full name, please, sir?

1 A. Donald Eugene Ellsworth.

2 Q. And spell that last name for us.

3 A. E-L-L-S-W-O-R-T-H.

4 Q. All right, sir, Mr. Ellsworth, where do you live

5 right now?

6 A. I live at 831 Brower Street, 38111.

7 Q. Is that here in Memphis?

8 A. Yes, sir.

9 Q. And are you employed anywhere?

10 A. Yes, sir.

11 Q. Where is that at?

12 A. I run cornice for a construction company.

13 Q. Okay. And what do you mean "run cornice"?

14 A. Outside trim, doors and windows.

15 Q. All right, sir. Let me ask you, were you the

16 husband of Ms. Ricci Ellsworth?

17 A. Yes, sir.

18 Q. Let me hand you what has heretofore been

19 introduced as States' Exhibit Number 1, ask you to take a

20 look at it, tell me if you recognize the lady in that

21 photograph.

22 (Photograph tendered to witness.)

23 A. Yes, sir.

24 Q. And who is that, please, sir?

25 A. Pardon?

1 Q. Who is that?

2 A. That's Ricci Ellsworth.

3 Q. If you would pass that back to the deputy.

4 Mr. Ellsworth, when were you married to Ricci the

5 first time?

6 A. The first time we were married was in '75.

7 Q. And did you-all later get divorced?

8 A. Yes, sir, we did.

9 Q. And do you remember about when that was?

10 A. That would be about '77, '78.

11 Q. And did y'all then later remarry?

12 A. Yes, sir.

13 Q. And about when was that?

14 A. '91.

15 Q. All right. And were y'all still married, then,

16 in 1997?

17 A. Yes, sir.

18 Q. Did y'all have any children together?

19 A. Yes, sir, we did.

20 Q. How many?

21 A. I have a son, Christopher Don Ellsworth that's

22 23, and Tracy Renee just turned 16 last Friday.

23 Q. Do you remember where your wife was working back

24 in February of 1997?

25 A. Yes, sir. She was the night clerk at the Memphis

1 Inn.

2 Q. And do you remember the last time you ever saw
3 her?

4 A. Yes, sir.

5 Q. Would you tell the ladies and gentlemen of the
6 jury under what circumstances you saw her.

7 A. It was, I guess, February 7th, Friday night. She
8 worked the eleven to seven shift. And I had to work the
9 next morning so I was in bed getting ready to go to sleep
10 and she was doing her hair and makeup to go to work.

11 Q. And did she leave for work then?

12 A. Yes, sir.

13 Q. And that was February the 7th, 1997; is that
14 correct?

15 A. Yes, sir, Friday night.

16 Q. Have you ever seen or heard from her since?

17 A. No, sir.

18 Q. Do you know how your wife normally got to work?

19 A. Yes, sir.

20 Q. How was that?

21 A. We had a '89 Dodge Dynasty.

22 Q. Do you remember what color it was?

23 A. White.

24 Q. And do you know whether or not she drove it to
25 work that day?

1 A. Yes, sir, she did.

2 Q. Did you later get that car back?

3 A. Yes, sir, from the Memphis Police Department.

4 Q. Do you know a man by the name of Michael Dale

5 Rimmer?

6 A. Not personally. I know of him and who he is.

7 Q. Do you think you'd recognize him if you saw him

8 here in the courtroom?

9 A. Yes, sir, I would.

10 Q. Could you point to him and tell us where he's

11 sitting, please, sir?

12 A. He's sitting over there behind the gentleman and

13 the lady there.

14 MR. HENDERSON: If Your Honor please, let the

15 record reflect the witness has identified the defendant,

16 Michael D. Rimmer.

17 Q. How do you happen to know Mr. Rimmer?

18 A. While we were separated I would pick up my

19 children for visitation on weekends and I would

20 occasionally see him coming and going.

21 Q. Was he with Ricci at that time?

22 A. Yes, sir.

23 Q. Mr. Ellsworth, how did you find out that your

24 wife was missing?

25 A. Like I say, it was Friday night and I went to bed

1 early because I had to work that morning. The Memphis
2 police showed up at my door at 2:30 asking if Ricci was
3 there.

4 Q. 2:30 in the morning?

5 A. Yes, sir.

6 Q. Just tell the ladies and gentlemen of the jury
7 what happened that morning at 2:30 when you were awakened
8 by the police.

9 A. They asked me if she was there or if I'd heard of
10 her. And when I told them no, they told me that I needed
11 to go with them. They took me to the Memphis Inn and I sat
12 in the back of several different police cars until they
13 took me up to 201 Poplar to give a statement.

14 Q. Did you ever go into the motel while you were out
15 there with the police?

16 A. No, sir. I asked to but they would not allow me.
17 They told me it was an ongoing crime scene.

18 Q. Did you see your wife's car out there at the
19 motel?

20 A. Yes, sir, I did.

21 Q. Did your wife own a ring back then?

22 A. Yes, sir.

23 Q. Let me hand you this photograph and ask you take
24 a look at it and tell me if you recognize the ring in this
25 photograph.

1 THE COURT: Mr. Johnson, have you seen this?

2 MR. HENDERSON: I have shown it to them. Yes,
3 Your Honor.

4 MR. JOHNSON: Yes, sir. Thank you.

5 THE COURT: Thank you.

6 (Photograph tendered to witness.)

7 A. Yes, sir, that looks like it. Yes, sir, that's
8 it.

9 MR. HENDERSON: Your Honor, I'd ask that be
10 marked 2 for identification only at this time.

11 THE COURT: Mark that photograph as Exhibit 2
12 into evidence. I'm sorry, for identification purposes
13 only, testimony of Mr. Ellsworth.

14
15 (State's Exhibit Number 2 was marked
16 for identification purposes only.)
17

18 BY MR. HENDERSON:

19 Q. Do you remember when she got that ring, under
20 what circumstances she obtained that ring?

21 A. Yes, sir. She wanted a ring for Christmas, what,
22 that would be Christmas of '96. And we just got an
23 agreement she'd pick out the ring and I'd pay for it.

24 Q. Did she wear it often after Christmas of '96?

25 A. Yes, sir, she wore it constantly.

1 Q. Do you know where that -- Where did you get the
2 ring from, then, after February the 7th?

3 A. I believe she -- I'm not sure where she got it,
4 sir. I believe she purchased it from one of them home
5 shopping networks.

6 Q. Where did you get it after February the 7th? How
7 did you get it?

8 A. Oh, I received it from -- me and Officer Shemwell
9 went to the property room and he got it for me.

10 Q. Do you know where it is today?

11 A. Yes, sir, I do.

12 Q. Where is that?

13 A. It's around my neck.

14 Q. Would you mind pulling it out so we can see it?

15 A. No, sir. (Witness complies.) This is it here.

16 MR. HENDERSON: Your Honor, with the Court's
17 permission I'd like to ask permission for him to step down
18 and approach the jury box so that they can see this ring.

19 THE COURT: Sure.

20 MR. HENDERSON: Step down and just approach this
21 box and just pass down the box where they can see it.

22 THE COURT: Without spoken word.

23 (Witness complies.)

24 MR. JOHNSON: Your Honor, could he come this way
25 also?

1 THE COURT: Sir?

2 MR. JOHNSON: Could he come this way also?

3 THE COURT: Oh, yeah, show him, please.

4 MR. HENDERSON: If you would walk over and show
5 it so counsel can see it.

6 (Witness complies.)

7 If you'll resume your seat.

8 I have no further questions of this witness, Your
9 Honor.

10 THE COURT: All right, Mr. Johnson, any
11 cross-examination?

12

13 **CROSS-EXAMINATION**

14 **BY MR. JOHNSON:**

15 Q. Mr. Ellsworth, you stated that you initially
16 married her in 1975?

17 A. Yes, sir.

18 Q. Okay. And you got a divorce in 1977?

19 A. Yes, sir.

20 Q. Was Ms. Ellsworth married again during that time?
21 Do you know?

22 A. I'm not sure, sir.

23 Q. Okay. Now, y'all got back together in 1991?

24 A. Yes, sir.

25 Q. Okay. And do you know if she was married from

1 1977 to '91 to anyone?

2 A. Pardon?

3 Q. Do you know if she was married from -- You got

4 married again in 1977 or 1991?

5 A. We got remarried in '91.

6 Q. Okay. Do you know between '97 and '91 if she had

7 been married before?

8 A. I believe she was. Yes, sir.

9 Q. Okay. Do you know the individual's name?

10 A. Tommy West.

11 Q. Okay. Do you also know a Tommy Voyles?

12 A. No, sir.

13 Q. Okay. Now, after '91, this is after the incident

14 with Mr. Rimmer; is that correct?

15 A. Yes, sir, it is.

16 Q. Okay. Do you know if she went to the

17 penitentiary to see him during that time?

18 A. I believe she did. Yes, sir.

19 Q. And that was with your consent in that?

20 A. No, sir. She never saw -- I'm not sure what your

21 question was, but after we got back together, she had no

22 contact with Mr. Rimmer. I believe she did visit him

23 before we were reunited but not afterwards.

24 Q. Now, when you picked the kids up, what years were

25 those?

1 A. Pardon?

2 Q. What years were those when you picked your
3 children up?

4 A. Between -- oh, between the time we were divorced
5 until the time we got back together, I stayed in constant
6 contact with my children.

7 Q. So that was all -- that was between '77 and '91;
8 is that correct?

9 A. Yes, sir.

10 Q. And how long had you known Mr. Rimmer?

11 A. I don't know Mr. Rimmer.

12 Q. I'm talking about when you used to go over,
13 Mr. Ellsworth.

14 A. Oh, I imagine --

15 Q. Yes, sir.

16 A. I'm really not sure, sir. I'd say it was in the
17 late eighties when they got together. I'm not sure.

18 Q. In the late eighties?

19 A. Yes, sir.

20 Q. And when you went over, you would see him most
21 times?

22 A. Yeah, sometimes he would be there. Yes, sir.

23 Q. Okay. Did they live together at that time?

24 A. Yes, sir, they lived together.

25 Q. Okay. Well, from 1980 on until re-marriage he

1 stayed there with her until you were remarried until the
2 incident happened with him and Ms. Ellsworth; is that
3 correct?

4 A. Would you state that again, please?

5 Q. Okay. Was he there from the time that he went to
6 jail for the offense involving Ms. Ellsworth, from '77
7 until that time, and could you give the jury that time when
8 the incident happened involving Ms. Ellsworth?

9 A. I'm not sure how long they were together, sir.

10 Q. Okay. Do you know when the incident happened
11 involving Ms. Ellsworth and Mr. Rimmer?

12 A. You talking about the first time?

13 Q. Yes, sir.

14 A. I believe it was around '88.

15 Q. And y'all got married again in '91; is that
16 correct?

17 A. No, sir. We got back together in '91 and we
18 remarried December of '92.

19 Q. When was your daughter born?

20 A. She was born October 30th, '82.

21 Q. Does she have any other children that you know
22 of?

23 A. No, sir, just the two that we have together.

24 MR. JOHNSON: Would you indulge me just one
25 moment, Your Honor?

1 THE COURT: Yes, sir.

2 (Brief off-the-record conference
3 between counsel and defendant.)

4 MR. JOHNSON: I have nothing further, Your Honor.

5 THE COURT: Any redirect?

6 MR. HENDERSON: No, Your Honor. Thank you.

7 THE COURT: Thank you. You can step down.

8 You're free to remain in the courtroom if you wish.

9

10 WITNESS EXCUSED

11

12 THE COURT: Call your next witness.

13 MR. HENDERSON: Call Ms. Linda Cook.

14

15 LINDA COOK was called and having been duly sworn,
16 was examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. HENDERSON:

19 Q. Would you tell us your full name please, ma'am.

20 A. Linda Cook.

21 Q. And spell that last name for us.

22 A. C-O-O-K.

23 Q. Where are you employed, Ms. Cook?

24 A. Memphis Inn.

25 Q. And what's your job there?

1 A. I'm the general manager.

2 Q. And where do you live?

3 A. At the Memphis Inn. I live on property.

4 Q. How long have you been there?

5 A. Almost ten years.

6 Q. Let me direct your attention back to -- well,

7 first off, that is -- where is the location of the Memphis

8 Inn?

9 A. 6050 Macon Cove.

10 Q. Is that here in Memphis, Shelby County,

11 Tennessee?

12 A. Memphis. Yes.

13 Q. Let me direct your attention back to February of

14 1997. Did you know a lady by the name of Ricci Ellsworth?

15 A. Yes, I do.

16 Q. Let me hand you what has heretofore been marked

17 as State's Exhibit Number 1, ask you to take a look at it

18 and tell me if you recognize the lady in that picture.

19 (Exhibit tendered to witness.)

20 A. That's Ricci Ellsworth.

21 Q. Do you recognize the clothes she's wearing in

22 that picture?

23 A. It's a uniform, the Memphis Inn uniform.

24 Q. I believe it has her name tag on it; is that

25 correct?

1 A. Yes.

2 Q. If you'd pass that back to the deputy, please.

3 What was Ms. Ellsworth's job there?

4 A. She was a night auditor.

5 Q. And what's a night auditor do?

6 A. Basically they audit the night's receipts or the

7 daily receipts, and close it out, and begin the new day.

8 Q. And if somebody wants to check in or check out

9 during the night, is she the one to do that?

10 A. Yes.

11 Q. How long did Ms. Ellsworth work for you?

12 A. Seven years.

13 Q. What shift was she working February of 1997?

14 A. Eleven to seven. Eleven P.M. to seven A.M.

15 Q. How many people would be on duty from 11:00 P.M.

16 to 7:00 A.M.?

17 A. One.

18 Q. So she would've been working by herself; is that

19 correct?

20 A. That's correct.

21 Q. What kind of security was there to protect a

22 clerk working at night alone?

23 A. They're behind a locked door. There is no need

24 for them to go outside the door. Everything is behind it.

25 Q. And how is the door locked? What kind of lock is

1 on the --

2 A. It's a code.

3 Q. Code?

4 A. Coded lock.

5 Q. Push some buttons to get in?

6 A. Push the buttons to get in. You have to have a
7 code.

8 Q. Do you remember whether or not she worked the
9 night of February the 7th, 1997?

10 A. Yes, she was there. She relieved two girls
11 working the B shift.

12 Q. How did you find out after she came to work that
13 there was something wrong at the office?

14 A. The deputy, Shelby County deputies came to my
15 apartment, and knocked on the door, and told me that I
16 needed to come up to the front.

17 Q. Did you go up to the front?

18 A. Yes, I did.

19 Q. Explain to the ladies and gentlemen of the jury
20 what you saw when you went up to the front.

21 A. The door was open. I walked in, the door was
22 open. And didn't look -- nothing looked out of the
23 ordinary at the front. But as I walked back to -- we have
24 an employee bathroom towards the back. There was the --
25 looked like a horrible fight had taken place back there.

1 Q. What was it that made it look like that?

2 A. There was blood all over the floor. Parts of the
3 commode was ripped off. There was just a horrible mess.

4 Q. Let me hand you this item and ask you to take a
5 look at it. We've shown it to counsel for the Defense,
6 Your Honor.

7 THE COURT: All right.

8 (Photograph tendered to witness.)

9 A. This is our sign, the Memphis Inn sign.

10 Q. Right out in front of the motel; is that correct?

11 A. Mmm-hmm. That's correct.

12 MR. HENDERSON: Your Honor, I'd ask that be
13 marked into evidence as State's Exhibit Number 3.

14 THE COURT: Any objection?

15 MR. JOHNSON: I have none, Your Honor.

16 THE COURT: Mark that as Exhibit 3 into evidence,
17 testimony of Linda Cook.

18

19 (State's Exhibit Number 3 was marked
20 and filed.)

21

22 BY MR. HENDERSON:

23 Q. Let me hand you this next photograph and ask you
24 if you can recognize it.

25 MR. HENDERSON: I have shown it to counsel for

1 the defense, Your Honor.

2 (Photograph tendered to witness.)

3 A. This is the night entrance.

4 Q. All right. Is that the entrance you --

5 A. The side entrance.

6 Q. Is that the entrance you went through when you
7 went out there?

8 A. Yes. Yes.

9 Q. Does that picture truly and accurately show the
10 way it looked out there that night?

11 A. Yes.

12 Q. I'm not going to ask you to identify the police
13 officer, but there's a police officer standing there; is
14 that right?

15 A. That's correct.

16 MR. HENDERSON: Your Honor, I'd ask that be
17 marked into evidence as State's Exhibit Number 4.

18 THE COURT: Any objection?

19 MR. JOHNSON: I have none, Your Honor.

20 THE COURT: Mark it as Exhibit 4 into evidence,
21 testimony of Linda Cook.

22

23 (State's Exhibit Number 4 was marked
24 and filed.)

25

1 MR. HENDERSON: If we could hand that back to
2 Ms. Cook for just one moment.

3 BY MR. HENDERSON:

4 Q. Ma'am, the front door, the night entrance door,
5 now, is that the one that is code locked or is it a
6 different one?

7 A. No. No. This is --

8 Q. Because that one is supposed --

9 A. This leads into the -- it's like a vending area.
10 There's vending machines there.

11 Q. So that one's open to the public so they can come
12 in; is that correct?

13 A. That's open to the public. Yes.

14 Q. All right. If you'd pass that back to the
15 deputy.

16 I'll hand you this next item. I've shown this to
17 counsel. If you'd take a look at this picture and tell me
18 if you recognize what that is, please, ma'am?

19 (Photograph tendered to witness.)

20 A. This was the back room. Or the bathroom, the
21 employee bathroom.

22 Q. Is that the way it appeared in the early morning
23 hours of February the 8th when you went around there?

24 A. Yes.

25 Q. Can you describe what pieces of -- what's shown

1 in that picture?

2 A. There's a flashlight, a glass, the commode, the
3 sink, a curling iron, a brush. And there's blood all over
4 the commode.

5 MR. HENDERSON: Your Honor, I'd ask that be
6 marked into evidence as State's Exhibit Number 5.

7 THE COURT: Any objection?

8 MR. JOHNSON: I have none, Your Honor.

9 THE COURT: Mark it as Exhibit 5 into evidence,
10 testimony of Linda Cook.

11

12 (State's Exhibit Number 5 was marked
13 and filed.)

14

15 BY MR. HENDERSON:

16 Q. If you could pass that back to Ms. Cook.

17 (Exhibit returned to witness.)

18 Ms. Cook, I believe you said there's a flashlight
19 in there; is that correct?

20 A. That's correct.

21 Q. And the flashlight is where?

22 A. It's in the sink.

23 Q. And do you know where that flashlight is normally
24 kept?

25 A. I believe it's -- normally it's kept on the file

1 cabinets.

2 Q. Is that in the bathroom?

3 A. No, it's outside.

4 Q. Okay. Thank you. You can just pass that back to

5 the deputy, if you would, please.

6 That picture shows a sink; is that correct?

7 A. That's correct.

8 Q. This bathroom is the employee bathroom; is that

9 right?

10 A. Correct.

11 Q. Back in February of 1997 were you familiar with

12 what was in that bathroom?

13 A. Yes.

14 Q. Okay. The sink was in there back in February of

15 '97; is that correct?

16 A. Yes, it was.

17 Q. Did you notice, other than the substances on it,

18 did you notice any difference in the sink after that

19 morning of February the 7th? Or excuse me, February the

20 8th.

21 A. The sink was cracked.

22 Q. All right. Was it cracked before --

23 A. No.

24 Q. -- the night of February the 7th?

25 A. No, it was not.

1 Q. Now, it doesn't really -- the crack does not show
2 up in that photograph, does it?

3 A. No.

4 MR. HENDERSON: Your Honor, with the Court's
5 permission may I approach the witness to show her an item?

6 THE COURT: You may.

7 Q. Ms. Cook, do you recognize that item?

8 A. That's the sink out of the employee's bathroom.

9 Q. Okay. As a matter of fact, we had an officer out
10 there just yesterday; is that correct, to pick it up?

11 A. Yes.

12 Q. Does that show the crack? Can you see the crack
13 on it in the --

14 A. Yes, you can see it here and across -- probably
15 -- I can't see it, but there it is, right across there and
16 all the way down.

17 Q. Was that damage there prior to the night of
18 February the 7th?

19 A. No, it was not.

20 Q. Was it there the next morning on February the
21 8th?

22 A. Yes.

23 MR. HENDERSON: Your Honor, I'd ask that be
24 marked into evidence as State's Exhibit Number 6.

25 THE COURT: Any objection?

1 MR. JOHNSON: I have none.

2 THE COURT: Mark that as Exhibit 6 into evidence,
3 testimony of Linda Cook.

4

5 (State's Exhibit Number 6 was marked
6 and filed.)

7

8 BY MR. HENDERSON:

9 Q. Ms. Cook, the next morning did you have a chance
10 to go back and check the records to see if anything was
11 missing from the motel?

12 A. There was some money missing.

13 Q. How much money approximately?

14 A. Approximately a little over \$600.00.

15 Q. Was there anything else missing from the office?

16 A. There was some sheets. We keep a file cabinet in
17 the back for guests who need clean sheets or if they have
18 to clean a room. Sheets and some bath mats were missing.

19 Q. Do you have any idea how many sheets and/or bath
20 mats were missing?

21 A. About three or four sets.

22 Q. Okay. And what is a set of sheets?

23 A. It's two sheets and two pillowcases folded
24 together.

25 Q. Okay. And how many sets do you think were

1 missing?

2 A. About three. I'd say about three.

3 Q. Three? So that would be a total of six sheets,

4 then; is that correct?

5 A. Correct.

6 Q. Did you notice a towel in the floor of the

7 bathroom when you first looked in there?

8 A. When I looked in the bath -- no, I didn't

9 really.....

10 Q. Let me hand you this next item and ask you to

11 take a look at it and tell me if you recognize what it is,

12 please. And I've shown this to counsel for the defense.

13 (Item tendered to witness.)

14 A. That looks like one of our towels.

15 Q. And what color is that towel, please, ma'am?

16 A. Red.

17 Q. Do y'all have red towels at this motel?

18 A. No.

19 Q. Was it originally white?

20 A. White.

21 Q. And is that the way it appeared out there next to

22 the commode in the employee's bathroom?

23 A. Yes.

24 MR. JOHNSON: Your Honor, may I approach the

25 bench one moment?

1 THE COURT: Sure.

2

3 (A bench conference was held as

4 follows.)

5

6 THE COURT: Yes, sir.

7 MR. JOHNSON: From my understanding I don't think

8 she stated that she remembered the towel being there. She

9 stated it appears to be a towel that's one of hers and she

10 stated that she did not remember seeing a towel on the

11 scene. So I'm going to object to the picture coming in

12 because she is not saying that that particular towel or

13 that particular -- that particular towel was there that

14 particular night.

15 THE COURT: Well, it qualifies for ID only. You

16 going anywhere else with it?

17 MR. HENDERSON: We've got some other witnesses

18 that'll be testifying to it.

19 THE COURT: All right. I'll allow it for

20 identification.

21 MR. JOHNSON: All right, sir.

22 MR. HENDERSON: Described later as a red towel.

23 THE COURT: Good enough.

24

25 (Said bench conference was concluded.)

1 MR. HENDERSON: We would ask that be marked as
2 Exhibit Number 7 for identification only at this time.

3 THE COURT: Mark it as Exhibit 7 for
4 identification only, testimony of Linda Cook.

5
6 (State's Exhibit Number 7 was marked
7 and filed.)

8
9 THE COURT: All right, sir.

10 BY MR. HENDERSON:

11 Q. Ms. Cook, what kind of employee was Ricci?

12 A. Outstanding employee. Dependable, honest, you
13 couldn't ask for a better employee.

14 Q. Had she missed many days of work?

15 A. Never.

16 Q. Did you ever know her prior to the night of
17 February the 7th to just abandon her position?

18 A. It was not like her. She wouldn't do a thing
19 like that.

20 Q. Do you know what -- how often she got paid in
21 that position?

22 A. Every two weeks.

23 Q. Do you remember what day of the week she would've
24 been paid?

25 A. Monday.

1 Q. So as of Friday she at least would have had at
2 least one week of pay due; is that correct?

3 A. Yes.

4 Q. Do you know what kind of a vehicle she drove?

5 A. A white Dynasty.

6 Q. Did you see that out there that night or that
7 morning the officers came to get you?

8 A. Yes.

9 Q. How long did you know Ricci Ellsworth?

10 A. For seven years.

11 Q. And how often did you see her during that seven
12 years?

13 A. I usually talked to her every morning. She would
14 be leaving as I was coming on.

15 Q. How would you describe your relationship with
16 her?

17 A. A good relationship. I mean, I thought a lot of
18 Ricci. She was a valued member of my team.

19 Q. Were you friends as well as employer and
20 employee?

21 A. Yes.

22 Q. Have you heard from her since the night of
23 February the 7th?

24 A. No.

25 MR. HENDERSON: No further questions, Your Honor,

1 but I would ask to pass Exhibits 1, 3, 4, and 5 to the
2 jury, and ask if perhaps the deputy could just hold Exhibit
3 Number 6 up where they could view the exhibit. Six is the
4 sink, that's what I was going to ask if we could just --

5 THE COURT: I'm just toying with why you don't
6 want to pass it through the jury. (Laughter) Might be
7 rejected.

8 All right. Yeah, 1, 2 -- No, 1, 3, 4, 5 and 7 --
9 No, 6.

10 MR. HENDERSON: No, 6. Yes, Your Honor.

11 THE COURT: Well, they can see it. Mr. Scruggs,
12 do you want to do the sink?

13 MR. HENDERSON: Your Honor, could we get Jencks
14 material now while we're --

15 THE COURT: Yeah, you got any Jencks material he
16 doesn't have?

17 MR. HENDERSON: No, Your Honor, there is no
18 Jencks material as to Ms. Cook.

19 THE COURT: Okay.

20 MR. HENDERSON: Other than what was contained in
21 a summary of an officer and I've already furnished that to
22 counsel for the Defense.

23
24 (Exhibits were passed to the jury and
25 the sink was displayed to the jury by

1 the bailiff.)

2

3 THE COURT: All the exhibits been passed now?

4 BAILIFF: Yes, sir.

5 THE COURT: Okay. I need to explain something to
6 you. It's a matter of terminology you probably don't hear
7 every day. At the end of -- let's say, as an example,
8 Mr. Henderson's examining a witness, then he's ready to sit
9 down, there may be a request from the defense lawyers about
10 Jencks material. Well, that's called the Jencks,
11 J-E-N-K-S, Act. And it says they are not entitled, the
12 defense lawyers are not entitled to any statements that a
13 witness has given until after the prosecutor is through
14 talking to them. I didn't make that law. But that's the
15 way it works.

16 In the same respect, if the Defense has a witness
17 up here, then the prosecutor is not entitled to any
18 statements that the Defense may have in their possession
19 until after the Defense is through talking to them. See
20 the way it works? And then only upon request. If they
21 don't ask, they don't have to give it.

22 So if you hear either side say do we have any
23 Jencks material, that's what they're talking about. In
24 other words, do you have a statement of this witness and
25 can I look at it.

1 All right. Cross-examination.

2

3

CROSS-EXAMINATION

4

BY MS. THACKERY:

5

Q. Ms. Cook, you stated that Ms. Ellsworth was the
6 night auditor; is that correct?

7

A. Correct.

8

Q. And she accounted for receipts of money that came
9 in during her shift; is that right?

10

A. Yes.

11

Q. How often -- in that position how often would
12 someone deposit any receipts into the safe or account for
13 them? Is it hourly, or once a night, or what?

14

A. Normally it was at their discretion.

15

Q. Oh.

16

A. They dropped money whenever they had a little
17 lump sum or whatever.

18

Q. Okay. And do you remember stating that you had
19 checked the safe and noticed that there had not been any
20 drops made by Ms. Ellsworth during her shift?

21

A. That's correct.

22

Q. And she went on at 11 o'clock; is that right?

23

A. That's correct.

24

Q. And what time were you called or notified by the
25 officers that something had happened?

1 A. It was after three.

2 Q. After three?

3 A. Mmm-hmm (yes).

4 Q. You had not been contacted by anyone else prior

5 to that?

6 A. No.

7 Q. And you live on the property?

8 A. That's correct.

9 Q. In relation to where the office was where

10 Ms. Ellsworth was, where is your room located?

11 A. At the back of the property.

12 Q. And about how far back is that?

13 A. Well, we have a hundred -- there's like 50 rooms

14 per side, and I'm on the opposite side at the very end.

15 Q. Okay. Do all the rooms enter from the outside?

16 A. Yes.

17 Q. All right. How many floors are there to the

18 motel?

19 A. One.

20 Q. Is it shaped in a block, or is it square, or how

21 is it? An L or how is it shaped?

22 A. It's two buildings and a breezeway in between

23 each. You have your one hundred side and your two hundred

24 side and there's a breezeway going between them. And a

25 road that goes the whole way around and down the center.

1 Q. Is there parking in between the two buildings?

2 A. Yes.

3 Q. Now, the side door that Mr. Henderson showed you,

4 the blue door, was that coming from the outside? The one

5 that goes into the vending area?

6 A. Yes.

7 Q. And that's open to the public; is that correct?

8 A. That's correct.

9 Q. And how far away from the secured coded door is

10 that?

11 A. From here to the -- about the table.

12 Q. Now, inside the area where Ms. Ellsworth worked,

13 did the day crew also work in that area?

14 A. Yes.

15 Q. Behind the secured door?

16 A. Yes.

17 Q. So whoever was on as the clerk at whatever shift,

18 they worked behind that secured door; is that right?

19 A. Yes. Yes. It's all -- all the work is done

20 behind the doors.

21 Q. And you did that during the daytime? Did you

22 ever do that during the daytime?

23 A. Do what?

24 Q. Work the same type of job that Ms. Ellsworth did?

25 A. Oh, yes.

1 Q. Okay. And that's what you did during the day.

2 A. Yes.

3 Q. Was there a security camera behind the secured

4 door?

5 A. There is a camera there but it's not a real

6 camera.

7 Q. What does that mean?

8 A. That there's no tape in it.

9 Q. Oh, so you never run a tape on it?

10 A. No.

11 Q. Even back in January of '97 -- I mean, February

12 of '97 there wasn't a tape in that security camera?

13 A. No.

14 Q. Where is it located? Is it behind the secured

15 door or outside of it?

16 A. Behind the secured door.

17 Q. Did you notice anything unusual about that camera

18 when you went in and saw in the bathroom, did you notice

19 anything on the camera?

20 A. I never looked at the -- I never even looked at

21 the camera.

22 Q. Okay. Do you remember if you stated to the

23 police officers whether or not that sink was cracked at

24 that time?

25 A. I don't remember.

1 Q. Okay. So if their records don't reflect a crack
2 in the sink, it's possible you didn't tell them about it?
3 A. That's correct.
4 Q. Is there anything particular about y'all's
5 towels? Do you have a logo or a name on them --
6 A. No.
7 Q. -- or are they just regular white towels?
8 A. They're regular white Dundee towels.
9 Q. Okay. Now, when you were contacted by -- was it
10 police or sheriff's deputies, do you remember?
11 A. Sheriff's deputies.
12 Q. And that was after three in the morning?
13 A. Mmm-hmm (yes).
14 Q. Were you -- did you observe them while they were
15 on the scene taking evidence?
16 A. No, I didn't really pay attention to what they
17 were doing.
18 Q. Okay. Did they ever come back after February 8th
19 to do any more investigation in that bathroom or anywhere
20 on the scene?
21 A. The Shelby....?
22 Q. Either one. Either Memphis police or --
23 A. Not that I can remember.
24 Q. So you don't remember any law enforcement
25 officers coming back after February 8th to --

1 A. Not that I can remember. I don't remember
2 anybody coming back.

3 Q. On the coded door, do you punch buttons, a
4 certain number to get into the door?

5 A. Yes.

6 Q. Okay. And that's on the door itself on the
7 outside or is it on a door jamb next to it or what? Do you
8 remember?

9 A. No, it's on the actual door.

10 Q. So there's not a card that you slide through or
11 anything like that?

12 A. No. No.

13 Q. And who all had the code to that?

14 A. The front desk clerks.

15 Q. And there's three of y'all?

16 A. There were five.

17 Q. Okay.

18 A. Including myself.

19 MS. THACKERY: I don't have any more questions.

20 Thank you.

21 THE COURT: Any redirect?

22 MR. HENDERSON: Just one or two in light of hers,

23 Your Honor..

24

25

1 **REDIRECT EXAMINATION**

2 **BY MR. HENDERSON:**

3 Q. Ms. Cook, how do you open the coded door -- from
4 the side if you're the clerk, how do you get it open?

5 A. You just turn the knob and open it.

6 Q. Okay. You don't have to punch a button or punch
7 any code from that side?

8 A. No. No.

9 MR. HENDERSON: I have no further questions of
10 this witness, Your Honor.

11 THE COURT: Any recross?

12 MS. THACKERY: No, Judge.

13 THE COURT: Thank you, ma'am. You may step down.
14 You're free to remain in the courtroom.

15
16 WITNESS EXCUSED

17
18 THE COURT: Call your next witness.

19 MS. MOSLEY: Natalie Doonan.

20
21 NATALIE DOONAN was called and having been duly
22 sworn, was examined and testified as follows:

23 **DIRECT EXAMINATION**

24 **BY MS. MOSLEY:**

25 Q. Ma'am, could you please state your name and spell

1 your last name for the Court, please.

2 A. Natalie Doonan, D-O-O-N-A-N.

3 Q. You don't really need to talk into the

4 microphone. It'll pick you up.

5 A. Okay.

6 Q. Ms. Doonan, did you have occasion to be at the

7 Memphis Inn on February the 7th of 1997?

8 A. Yes, ma'am.

9 Q. And what brought you there?

10 A. Me and my boyfriend were staying the night.

11 Q. And did you ever happen to go back into the

12 vending area?

13 A. Yes, ma'am.

14 Q. About what time did you do that?

15 A. I can't remember. May I see my statement,

16 please?

17 MR. HENDERSON: At the same time, Your Honor,

18 I'll go ahead and furnish a copy to counsel for the

19 defense, for the Defense's Jencks material as well.

20 THE COURT: Okay.

21 (Document tendered to witness.)

22 Q. Ms. Doonan, let me just ask you a couple of

23 questions about that statement. At the time that this

24 happened, did you talk to the police?

25 A. After it happened?

1 Q. Yes, ma'am.

2 A. Mmm-hmm (yes). Yes, ma'am.

3 Q. Okay. And did you make a statement to the police

4 about what you remembered at that time?

5 A. Yes, ma'am.

6 Q. And did you remember then a little bit more

7 clearly than you do now about what happened?

8 A. Yes, ma'am, because it was the day after.

9 Q. And did you tell them what time it was that you

10 went up to the vending area?

11 A. Yes.

12 Q. Okay. If you could look and see what time you

13 told them it was.

14 A. (Pause while looking at statement.) Okay. It

15 was probably sometime between 1:30 and 1:45.

16 Q. Okay. And why did you go back over to the

17 vending area?

18 A. To purchase cigarettes.

19 Q. Okay. And did you happen to see anybody while

20 you were over there? In the vending area.

21 A. As I was getting change a man did walk in.

22 Q. Okay. Did you see anybody else there? Was the

23 clerk on duty?

24 A. Yes.

25 Q. And did you know that clerk?

1 A. (Shaking head no.)

2 Q. Had you ever seen her before?

3 A. No.

4 Q. And did you know Ricci Ellsworth at all?

5 A. Well, I didn't know her personally but I -- some

6 sort, yes.

7 Q. Okay. And was the person who was working as the

8 clerk back behind in the office area? (Pause) You said

9 you saw a man come in.

10 A. (Nodding yes.)

11 Q. Okay. Now, he came in to where you were; is that

12 right?

13 A. Yes.

14 Q. Okay. Where was this other person that you saw?

15 A. Ricci?

16 Q. The --

17 A. The clerk?

18 Q. Yes, ma'am.

19 A. Okay. She was back behind where she was supposed

20 to be.

21 Q. In the office area?

22 A. Mmm-hmm (yes).

23 Q. Okay. Now, had you ever seen Ricci before?

24 A. Mmm-mmm (no).

25 Q. Okay. But you saw her back there behind that

1 area?

2 A. Yes.

3 Q. In the office.

4 A. Yes.

5 Q. All right. Now, what did you do after you got
6 your cigarettes?

7 A. Well, I had gotten change from her to purchase
8 the cigarettes. Then as I was getting the cigarettes, a
9 man walked in. And he came in, and he looked around, and
10 then he walked back out. So I went ahead and purchased my
11 cigarettes, went to the restroom, and then walked back to
12 my hotel.

13 Q. Did you have occasion to call back up to the
14 front anytime later?

15 A. Yes.

16 Q. About how much later was that? Do you remember?

17 A. Say from 20 to 30 minutes.

18 Q. Okay. And why were you calling up to the front?

19 A. To get a wake-up call.

20 Q. Did you reach anybody?

21 A. No.

22 Q. So about 20 or 30 minutes after you've seen the
23 clerk up there, you couldn't reach anybody?

24 A. Mmm-mmm (no).

25 Q. What did y'all do?

1 A. I just was -- I was like, I know she was just up
2 there because I just got back from coming up there.
3 Anyway, I don't know how long it was after that, but it was
4 probably around 5:00 to 5:30, we left.

5 Q. Did you call just the one time?

6 A. I called two to three times and let the phone
7 ring several times.

8 Q. Okay. And you never got any response?

9 A. Never.

10 Q. What did y'all do with the key?

11 A. Left it in the room.

12 Q. Okay. Let me pass up what's been marked as
13 Exhibit Number 3 to the witness, please. (Exhibit tendered
14 to witness.)

15 Ms. Doonan, could you look at that and tell me
16 what that appears to be?

17 A. The sign to the hotel.

18 Q. Is that the hotel we're talking about?

19 A. Mmm-hmm (yes).

20 MS. MOSLEY: Nothing further. Thank you,
21 Ms. Doonan.

22 THE COURT: Mr. Johnson, do you want to
23 cross-examine? Or whoever. I mean, I just --

24 MR. JOHNSON: Your Honor, can we just read this a
25 minute while I was....?

1 THE COURT: Sure, take your time.

2

3 CROSS-EXAMINATION

4 BY MS. THACKERY:

5 Q. Ms. Doonan, when was it you said you checked in?

6 A. Checked into the hotel?

7 Q. Uh-huh.

8 A. Around 10:30.

9 Q. And when was it you went up front to the vending
10 machine for cigarettes?

11 A. From 1:30 to 1:45.

12 Q. Okay. And your room, how far away was it from
13 the vending room area? Was it in the same building, same
14 part of the building?

15 A. I don't know.

16 Q. All right. The room that you stayed in that
17 night, was it in the same building as where Ricci worked?

18 A. I really don't understand the question, because
19 they're separated.

20 Q. Okay. That's what I'm asking you. Was the room
21 that you were staying in, your hotel room, was that in the
22 same building as the lobby where Ricci worked, or was it in
23 a different building?

24 A. I can't remember.

25 Q. Do you remember if you heard gunshots that night?

1 A. No, I did not hear no gunshots.

2 Q. Okay. Now, do you remember giving a description
3 to the police about the man that you saw that night?

4 A. Yes, ma'am.

5 Q. Okay. And do you remember if you told them if he
6 was light or dark-complected?

7 A. Dark-complected.

8 Q. Okay. Do you remember thinking that maybe he
9 wasn't American because he was so dark?

10 A. Yes, ma'am.

11 Q. Okay. And, now, when you came down and gave this
12 statement the next day on February the 9th, did the officer
13 show you pictures of different men? Do you remember?

14 A. Yes, ma'am.

15 Q. Okay. And do you remember how many pictures they
16 showed you?

17 A. I believe it was six.

18 Q. Okay. And do you remember if you identified
19 anybody in those pictures?

20 A. No, I didn't.

21 Q. Okay. Now, any time when you were at the motel
22 that evening, either late February 7th or early February
23 8th, do you remember any particular cars that you saw in
24 that area in that parking lot?

25 A. No, ma'am.

1 Q. Okay. You didn't see anything suspicious out in
2 the parking lot; is that right?

3 A. That's right.

4 Q. Okay.

5 MS. THACKERY: That's all. Thank you.

6 THE COURT: Any redirect?

7 MS. MOSLEY: No, sir.

8 THE COURT: Thank you. You can step down.
9 You're free to go about your business or you can remain in
10 the courtroom.

11

12 WITNESS EXCUSED

13

14 THE COURT: Call your next witness.

15 MR. HENDERSON: Call Mr. James Defeverere.

16

17 JAMES MICHAEL DEFEVERE was called and having been
18 duly sworn, was examined and testified as follows:

19 DIRECT EXAMINATION

20 BY MR. HENDERSON:

21 Q. Tell us your full name please, sir.

22 A. James Michael Defeverere.

23 Q. And spell that last name for us.

24 A. D-E-F-E-V-E-R-E.

25 Q. And Mr. Defeverere, where do you live?

1 A. Right now I live at 3109 Vista Grand Road,
2 Memphis, Tennessee.

3 Q. All right, sir. And are you employed anywhere?

4 A. Yes, sir, I am.

5 Q. Where is that?

6 A. Security Connections on Germantown Road.

7 Q. Let me direct your attention now back to February
8 the 7th of 1997. Where were you working back then?

9 A. I was working in a place called Super K-Mart.

10 Q. Which one?

11 A. Winchester Road.

12 Q. What did you do at the Super K-Mart on Winchester
13 Road?

14 A. I was doing undercover security.

15 Q. And what kind of hours was the Super K-Mart on
16 Winchester open back then?

17 A. Twenty-four hours a day.

18 Q. All right. So what shift were you working back
19 on February the 7th?

20 A. I was working third shift, eleven to seven.

21 Q. Okay. Eleven at night till seven in the morning?

22 A. Till seven in the morning. Yes, sir.

23 Q. Do you get any breaks in there?

24 A. Yeah, I get a lunch break and two 30-minute
25 breaks in between.

1 Q. Well, when do you get a lunch break between
2 eleven at night and seven in the morning?

3 A. Just basically whenever I really get a free
4 chance in the morning when it gets real slow to -- if I get
5 a chance, I can leave. There's two people working at
6 nights.

7 Q. Specifically the night of February the 7th and
8 early morning hours of February the 8th, do you recall what
9 you did on your break that night?

10 A. Yes, sir. I met a friend of mine up the street.
11 It was -- took a little time off extra that night. I had
12 plans meeting somebody up the street at the motel.

13 Q. Okay. And this friend, was it male or female?

14 A. Female.

15 Q. All right. And what motel did you go to?

16 A. The Memphis Inn on Sycamore View.

17 Q. Let me hand you a photograph here. Take a look
18 at what's been marked as State's Exhibit Number 3 and see
19 if that's the sign of the same motel we're talking about.

20 (Exhibit tendered to witness.)

21 A. Yes, sir, it is.

22 Q. All right, sir. If you'd pass that back to the
23 deputy.

24 Do you recall about what time you checked into
25 the motel that night for your lunch hour?

1 A. Well, it was somewhere between 1:00 and 1:15,
2 approximately somewhere in that time.

3 Q. And how did you get there?

4 A. She met me and we pick -- went in her vehicle.

5 Q. What kind of car was it?

6 A. She was -- it was a ninety-something model RS
7 Camaro, red with T-tops.

8 Q. When you checked in, do you remember whether or
9 not there was a clerk on duty?

10 A. Yes, sir, when I walked in, I filled out all the
11 paper work. There was a lady at the desk and she explained
12 all the details to me about it. And I went ahead and
13 signed it all, gave it to her, and I walked out and the
14 room was right across from where she was at.

15 Q. And do you remember about what time you checked
16 out of the room or left the room?

17 A. It was somewhere in the vicinity of 2:25, 2:35,
18 in that little range right there.

19 Q. And what did you do at check-out? I mean, did
20 you--

21 A. I just -- I walked in to -- I left the key. I
22 was going in to check out. I didn't know if I had to sign
23 anything or not. I walked in and looked around a couple
24 minutes. Didn't see anything so I slid the key up
25 underneath the register and it went up underneath the

1 window, and I just went ahead and left it there.

2 Q. You'd paid before you checked into the room, I

3 take it, then?

4 A. Yes, sir. I paid cash when I left.

5 Q. Let me hand you this next item, then, ask you to

6 take a look at it and tell me if you recognize what this is

7 please, sir.

8 I have shown this to counsel for the defense,

9 Your Honor.

10 THE COURT: All right.

11 (Item tendered to witness.)

12 A. This is the key I dropped off to her.

13 Q. Okay. That you slid it up under the little tray

14 there?

15 A. Just slid it up right there. I made sure it was

16 far enough back so nobody could stick their hands and get

17 it.

18 Q. Does that depict the way you left it there when

19 you left around --

20 A. That's exactly --

21 Q. -- 2:25 or 2:35 that morning?

22 A. Yes, sir, it is.

23 MR. HENDERSON: Your Honor, I'd ask that be moved

24 into evidence as State's Exhibit Number 8.

25 THE COURT: Any objection?

1 MR. JOHNSON: I have none.

2 THE COURT: Marks it as Exhibit 8 into evidence,
3 testimony of Mr. Defevere.

4
5 (State's Exhibit Number 8 was marked
6 and filed.)

7
8 MR. HENDERSON: I have no further questions. I
9 would ask that that last exhibit be passed to the jury if
10 it's all right.

11 THE COURT: Pass it, Mr. Sheriff.

12 MR. HENDERSON: Your Honor, for the record, the
13 only Jencks material consists -- is contained in Officer
14 Shemwell's supplement and that's been previously furnished
15 to counsel for the defense.

16 THE COURT: Okay.

17
18 (Exhibit 8 was passed to the jury.)

19
20 MR. HENDERSON: I pass the witness, Your Honor.

21 THE COURT: All right. You may cross-examine.

22

23 CROSS-EXAMINATION

24 BY MR. JOHNSON:

25 Q. Mr. Defevere, if I'm --

1 A. Yes, sir.

2 Q. All right. You stated now, what time of night
3 did you get there?

4 A. It was somewhere between 1:00 and 1:15.

5 Q. 1:00 and 1:15?

6 A. Yes, sir.

7 Q. You made arrangements.....

8 A. Yes. Not -- With my lady friend I was meeting.
9 Yes, we made arrangements to meet. Yes. She met me,
10 picked me up and we went from there.

11 Q. Now, you made the arrangements. That's what
12 you're saying.

13 A. With her. Not with the motel. I went there to
14 -- we just went there.

15 Q. Okay. You didn't make arrangements with the
16 motel clerk.

17 A. No. I just went -- we just went to the motel.
18 We was meeting.

19 Q. Yes, sir. Who was with you?

20 A. Just me and a friend of mine.

21 Q. What was basically her name? What was her name?

22 A. Her name was Jackie Darian.

23 Q. Now, when the arrangements were made, where were
24 you? You were in the car?

25 A. When I told her -- we knew -- we knew we was

1 going to meet that night like a couple nights before that
2 we talked. And we worked at the same place together so we
3 couldn't, you know, talk freely at work. So we just made
4 arrangements to meet on Fridays, and like twice a week or
5 something.

6 Q. Okay.

7 A. You know, we'd meet and we'd go -- go out for a
8 while and I'd go back to work and she'd go home or
9 whatever.

10 Q. How did you get to the room? That's what I'm
11 saying.

12 A. She picked me up.

13 Q. She came --

14 A. She met me out -- she came to work and picked me
15 up and we went from there.

16 Q. And that was about 1:15?

17 A. She got there -- No, she picked me up a little
18 before 1:00. We got to the motel between 1:00 and 1:15.

19 Q. And when you got to the motel, you went right up
20 to the room?

21 A. I went right in and checked in. I had to go
22 check in, fill out all the paper work and show the clerk my
23 ID and stuff like that. There's a registry card you have
24 to fill out before you can get a room.

25 Q. And you filled all of that out?

1 A. Filled all that out.

2 Q. And you talked to the clerk at that time?

3 A. Yes, sir.

4 Q. Now, how far away from that clerk's office were
5 you in the hotel?

6 A. I don't really know the approximate feet. The
7 room I was in was right across the way from the office.

8 Q. It was right across the way from the office.

9 A. Right across the street. Like it was -- the
10 office was on this side. The motel -- the room I stayed in
11 was right across the driveway from it.

12 Q. Could you see it from your room?

13 A. If I'd have opened up the windows and everything
14 had been open, yeah, I could have probably seen the office
15 from there, but I had -- the windows were shut and, you
16 know, all the curtains were shut and stuff, you know.

17 Q. What time did you leave?

18 A. Like I say, it was approximately 2:25 to 2:35 in
19 that little area right there. I really don't know the
20 exact time.

21 Q. Did you try to contact the clerk at that time?

22 A. I walked in. When we went to leave, like I say,
23 I was going to check out. I walked in. I looked around
24 for a minute, didn't really see anything, and I just went
25 ahead, I was in a hurry, and just slid the key underneath

1 to make sure that nobody could put their hand up there and
2 get my key and, you know, take the room, and I just left.
3 Didn't think nothing about it.

4 Q. Did you hear anything that night?

5 A. No, sir, I didn't hear -- didn't hear a thing.

6 Q. Was any cars parked out there that would --

7 A. Nothing that wasn't there when I was already
8 there when I had pulled up. Maybe a couple less cars in
9 the parking lot or something. But.....

10 Q. And you stated you left about 2:25, 2:35?

11 A. Something in that little area. Yes, sir.

12 Q. And you saw no police officers or anything on the
13 scene?

14 A. No.

15 Q. Was it dark in the immediate area where you put
16 the key, in the area where the clerk usually is?

17 A. In the office itself where I turned the --

18 Q. Yes, sir.

19 A. No. The lights and everything, they were on and
20 everything was on the way it was when I checked in. It's
21 just she wasn't there and, like I say, I didn't think
22 nothing about it. Just went ahead and left.

23 Q. So it's nothing unusual, was nothing unusual.

24 A. No, not that I knew of, no. I wasn't expecting
25 anything.

1 MR. JOHNSON: Excuse me, Your Honor.

2 THE COURT: Yes, sir.

3 (Brief off-the-record discussion
4 between defendant and his counsel.)

5 MR. JOHNSON: I have nothing further, Your Honor.

6 THE COURT: Any redirect?

7 MR. HENDERSON: No, Your Honor.

8 THE COURT: All right. You can step down.
9 You're free to go about your business.

10

11 WITNESS EXCUSED

12

13 THE COURT: Call your next witness.

14 MS. MOSLEY: Ronald King.

15

16 DR. RONALD KING was called and having been duly
17 sworn, was examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MS. MOSLEY:

20 Q. Sir, could you state your name and spell your
21 last name for the court reporter, please.

22 A. Ronald King, K-I-N-G.

23 Q. Mr. King, what do you do for a living?

24 A. I'm a dentist.

25 Q. And where do you do that?

1 A. With the Correctional Corporation of America.

2 Q. And where are you living now?

3 A. In Millington, Tennessee.

4 Q. And where were you living in February of 1997?

5 A. I was staying at the Memphis Inn.

6 MS. MOSLEY: Pass Exhibit 3 forward to the
7 witness, please?

8 THE COURT: All right.

9 (Exhibit tendered to witness.)

10 Q. Sir, does that look familiar to you?

11 A. Yes, ma'am.

12 Q. What is that?

13 A. That's the sign outside the Memphis Inn on, I
14 think, the Macon Road side.

15 Q. And what did you do the evening of the 7th, that
16 Friday?

17 A. The 7th, I went to some friends' house for dinner
18 and stayed there for quite a while.

19 Q. What time did you return to the inn?

20 A. I got back to the inn around approximately 1:30
21 the next morning on Saturday the 8th.

22 Q. What did you do then?

23 A. I, of course, went back to the room immediately
24 and stayed there for a few moments. Then I went to the
25 front area for some change and a snack.

1 Q. When you say "the front area", do you mean the
2 night entrance area?

3 A. Yes. Yes.

4 Q. Pass this to the witness, please. (Photograph
5 tendered to witness.)

6 Mr. King, can you identify what that is, please?

7 A. To the left is the change machine which I got the
8 change from, and to the immediate right is the night
9 window.

10 Q. And does that accurately reflect the vending
11 area, that part of it at that hotel, the Memphis Inn?

12 A. Yes, it does.

13 MS. MOSLEY: Your Honor, I'd ask that be moved as
14 Number 9, as State's Exhibit and moved into evidence,
15 please.

16 THE COURT: Any objection?

17 MR. JOHNSON: I have none.

18 THE COURT: Mark this as Exhibit Number 9 into
19 evidence, testimony of Dr. Ronald King.

20

21 (State's Exhibit Number 9 was marked
22 and filed.)

23

24 BY MS. MOSLEY:

25 Q. Dr. King, you said you went up to the snack, or

1 the vending area to get something to snack on and this was
2 about 1:30 or 1:35; is that about right?

3 A. I think it's probably around 1:40, 1:45 or
4 thereabouts just as an estimate from the time it takes me
5 to walk from that room.

6 Q. Okay.

7 A. Because I stayed in the room maybe five minutes
8 or so or maybe a little longer.

9 Q. Okay. Was anybody else in the vending area when
10 you first got there?

11 A. Not when I got in the area there was not.

12 Q. Did somebody later enter the vending area?

13 A. Around the same time as I entered the door,
14 someone came behind me and entered the area.

15 Q. And where did you see that person go next?

16 A. To the check-in window.

17 Q. Okay. And is that right next to the --

18 A. It's to the right of the change machine. Yes.

19 Q. So that's right next to where you were standing?

20 A. Yes.

21 Q. And what happened then?

22 A. I just made, you know, out of reflexes looked
23 over and made contact. And I think my change was coming
24 out at the same time. Then I immediately went over to the
25 right to the snack areas and started getting something.

1 Q. And was the night clerk on duty at that time?

2 A. Yes.

3 Q. At that point what, if anything, did you see

4 happen?

5 A. Well, when I first went in, I made eye contact.

6 We just nodded.

7 Q. When you say "made eye contact", with whom?

8 A. With the night clerk inside, and smiled and just

9 nodded at one another. Then as the other person came in,

10 he went to the check-in window. I didn't hear any

11 conversation at the time. I at the same time went to the

12 snack areas to the right and behind, and still at the

13 corner of my eye could see that his hand was going toward

14 the door, and at the same time she was coming over to the

15 door. Of course, at that time I lost contact.

16 Q. Which door are we talking about?

17 A. The door from the night area that goes into the

18 main lobby of the motel.

19 Q. Does this door have some kind of coded

20 combination on there?

21 A. It has a coded combination on the outside. Yes.

22 Q. And did you ever see this individual go through

23 that door?

24 A. I saw that individual go through the door. Yes.

25 Q. Did it appear to be someone that the clerk knew?

1 A. To me it did.

2 Q. Anything appear to be wrong at that point?

3 A. No. The person went to the counter, to the right
4 of the computer terminal I think. And I didn't see any
5 conversation going on. And at that time I was finishing
6 getting my snacks and I looked back at her and just nodded
7 as I left. They both looked at me and I left the door, out
8 the side door.

9 Q. Okay. Do you know about what time it was you
10 left?

11 A. No. I know what time it was when I got back to
12 the room. It was about 1:55. It probably takes me about
13 three or four minutes to walk to the room because I was on
14 the other end of the complex.

15 Q. Oh, Your Honor -- I'm sorry. Mr. King, Dr. King,
16 did you ever -- did you see how the other individual got
17 there?

18 A. As I was walking up to the night entrance I saw a
19 car come in and they were parking at the same time.

20 Q. Okay. Did you see where this car parked?

21 A. Right -- not exactly right in front of the night
22 entrance but I think, to the best of my recollection, to
23 the right of that door.

24 Q. Okay. So would you say that's pretty much right
25 in front of that door?

1 A. Right, mmm-hmm.

2 Q. Could I pass what's been marked Exhibit Number 4
3 to the witness, please. (Exhibit tendered to witness.)

4 Does that look familiar to you, Dr. King?

5 A. Yes, ma'am.

6 Q. Can you see on that picture approximately where
7 that car was parked?

8 A. I don't believe it was right exactly in front of
9 the door. I believe it was to the right a little bit,
10 maybe the next part over, which is in essence in front of
11 the door but not in front of the door itself.

12 MS. MOSLEY: Could I approach the witness, Your
13 Honor, so that we can show the jury perhaps where he was.

14 THE COURT: You may.

15 BY MS. MOSLEY:

16 Q. If we could hold this this way.

17 A. Okay.

18 Q. Can you show for the jury about where this car
19 was parked?

20 A. Best of my recollection, it was around in this
21 area.

22 THE COURT: Can all the jurors see it? If you
23 can't, raise your hand, please.

24 MS. MOSLEY: Thank you.

25 Q. Did you get a look at this car at all?

1 A. Yes, I did.

2 Q. Can you describe it as generally as you can?

3 A. The color is about all I remember because I'm not
4 good at picking out cars. But it was maroon.

5 Q. Okay. Could you tell if was an American-made or
6 a foreign-made car? Or do you know?

7 A. No, I'm not -- I.....

8 Q. Now, as to the individual that walked in, you
9 said it was a male. Was it a male white or male black?

10 A. Male white.

11 Q. Okay. Can you describe him at all?

12 A. He had a jacket and a cap on. Little bit taller
13 than I am, probably six foot, six-foot-one, maybe a little
14 taller, medium height or medium build.

15 Q. When you say "medium build", do you mean
16 size-wise?

17 A. Right.

18 Q. Did you get a very good look at him?

19 A. Well, I thought I did but I, you know, just a
20 glance, because I did glance like this at him, but with the
21 cap and the jacket on, and I really had no reason to have
22 that stick in my mind. And, of course, I got a look as I
23 left the area, too.

24 Q. Was it anybody you'd ever seen before?

25 A. No, it was not.

1 MS. MOSLEY: Nothing further. Thank you.

2 THE COURT: You may cross-examine.

3 MR. JOHNSON: Do they have any Jencks material,
4 Your Honor?

5 MR. HENDERSON: Copy of the statement, Your
6 Honor.

7 THE COURT: This is probably a good time to take
8 a recess. Don't discuss the case among yourselves or allow
9 anyone to discuss it with you. Step out, ladies and
10 gentlemen.

11
12 (A recess was had after which the
13 following proceedings were had in the
14 presence of the jury.)

15
16 THE COURT: All right, Defense, you can
17 cross-examine.

18

19 CROSS-EXAMINATION

20 BY MR. JOHNSON:

21 Q. Mr. King -- Dr. King rather, I think you arrived
22 back at the hotel about 1:30; is that correct?

23 A. Best of my recollection, yes.

24 Q. You went back to the room?

25 A. Yes, sir.

1 Q. And came out approximately five minutes later; is
2 that correct?

3 A. Can't be exactly sure but I -- five or ten
4 minutes later.

5 Q. Yes, sir. Now, you had been there for about
6 three or four days; is that correct?

7 A. Yes, sir.

8 Q. Okay. While there had you observed anybody in
9 the waiting area at the time the door was locked, or what
10 time is the door locked, if you know?

11 A. I don't know that information because I don't
12 think I had been up there that late before.

13 Q. You had never been there that late before. Now,
14 you gave a statement to the officers; is that correct, on
15 February the 9th, 1997?

16 A. I came down here and gave a statement. Yes, sir.

17 Q. Yes, sir. You stated that there was another
18 person with this individual that you saw come in.

19 A. To the best of my recollection I thought -- not
20 come inside the motel, but in the car I thought there were
21 two people.

22 Q. Okay. You thought they were two people.

23 A. (Nodding yes.)

24 Q. Did you tell the officers that there were two
25 people?

1 A. I'm not sure what I -- because I was interviewed
2 by the sergeant down here.

3 Q. Yes, sir.

4 A. I don't -- you know, I can't recall if I told him
5 at that time or not. I thought I did. But I can't be sure
6 that there were two. I just thought there were two in the
7 car.

8 Q. Oh, you're not sure that there were two?

9 A. I cannot be positive. No, sir.

10 Q. Now, this car -- I think you described it as a
11 full-size car?

12 A. With my definition of what a full-size car is
13 now, yes, because I saw it coming toward me.

14 Q. Okay. What would be your definition of a
15 full-size car?

16 A. Well, full-size car like I drive and what they
17 are now are two different things. And that's the reason
18 they're -- you know, what I drive is quite a bit larger
19 than what a full-size car. But a full-size car now is like
20 a Ford Taurus or something. But, to me, a full-size is
21 even the size smaller than that. I would more or less talk
22 about a full-size car versus a compact type car. You know,
23 the smaller one.

24 Q. Yes, sir. Did this car that you noticed, were
25 the windows tinted or anything?

1 A. I could not recall that. I could say yes or no
2 to that.

3 Q. Now, you said that you saw the individual put his
4 hand on the doorknob; is that correct?

5 A. Right. That's correct.

6 Q. Did he put his bald hand on the door knob?

7 A. Best of my recollection it was bald. Yes.

8 Q. Now, what were the weather conditions like out
9 there?

10 A. It was raining but it was more or less a drizzle
11 situation at that time.

12 Q. Do you know how you described the person that you
13 saw?

14 A. To what extent? As a male white --

15 Q. Yes, sir.

16 A. Looked like he may have had a -- maybe a
17 straggely beard or not completely shaven. And the hair
18 that was beneath the cap was not even or not organized. I
19 don't remember my exact words at that time but, I mean, it
20 was someone having a cap over their head, you know, the --

21 Q. Did you tell the officers that the individual had
22 a cap on?

23 A. Yes, I did.

24 Q. Let me pass you the statement up --

25 A. I think I did.

1 Q. -- and ask you if this is your statement and ask
2 you to look at Page 3. (Document tendered to witness.)
3 First of all, is that your statement, sir?
4 A. Yes, it is.
5 Q. And what day was this statement given?
6 A. On the 9th of February, 1997.
7 Q. Do you see on Page 3 where you are describing the
8 individual?
9 A. Yes.
10 Q. Do you describe a cap on the individual?
11 A. I don't see the cap mentioned here, I don't
12 believe.
13 Q. But this incident was fresher on your mind at
14 that time than it is now; is that correct?
15 A. Right.
16 Q. And you did give that statement and did not
17 mention --
18 A. I did give a statement that was almost positive
19 that he had a cap on. But..... But I can't be certain
20 that everything I said that day was written down.
21 Q. Okay.
22 A. You know, every word. So.....
23 Q. And if you could look through that statement and
24 see if you mention another person that you thought you
25 might have seen.

1 A. (Looking at statement.)

2 Q. There are some more pages there, Dr. King, if you

3 want to refresh.....

4 A. Yeah, because I don't recall --

5 Q. Yes, sir.

6 A. -- what pages they were on. (Pause) I don't see

7 a second person mentioned here.

8 Q. Okay. And but it was fresher on your mind on

9 February the 9th than it is now; is that correct?

10 A. Yes, sir.

11 Q. Now, how far away were you from the office?

12 A. At what point?

13 Q. When you went back to your room after leaving the

14 area.

15 A. My room?

16 Q. Yes, sir. From the office where you got the --

17 from the place that you went to the vending area and your

18 room, how far away were you? Your room.

19 A. I believe it was at the very extreme at the other

20 end.

21 Q. Okay.

22 A. Facing the, maybe the road as you first come off

23 the interstate there. I could see that. I remember the

24 room number but it wasn't a very last room but it was on

25 the outer side, the next section over.

1 Q. You didn't hear anything unusual --
2 A. No, I didn't.
3 Q. -- after you left?
4 A. No, sir.
5 Q. And you stayed up a little while after you got
6 back to the room; is that correct?
7 A. I don't recall but I wouldn't have been very
8 long, I don't believe, because it was so late. But I'm not
9 sure.
10 Q. If you could pass that back to him.
11 Now, when you -- Did you talk to any of the
12 officers right there on the scene at the time?
13 A. The night I was in the lobby?
14 Q. Yes, sir.
15 A. No, sir.
16 Q. Did you ever see any officers around at any point
17 in time?
18 A. No, not that night.
19 Q. Okay. And you were just contacted the next day;
20 is that correct?
21 A. No. I was not contacted. When I left the hotel
22 the next day, the policemen that were there were taking
23 everyone's name and driver's license. And I did not know
24 what had happened at that time because they wouldn't tell
25 me.

1 Q. Yes, sir.

2 MR. JOHNSON: Would you indulge me just a moment,

3 Your Honor?

4 THE COURT: Yes.

5 MR. JOHNSON: I don't have anything else, Your

6 Honor.

7 THE COURT: Any redirect?

8 MS. MOSLEY: No, sir.

9 THE COURT: Thank you, sir. You may step down.

10 You're free to go about your business.

11

12 WITNESS EXCUSED

13

14 THE COURT: Call your next witness.

15 MR. HENDERSON: Call Ms. Dixie Roberts.

16

17 **DIXIE ROBERTS PRESLEY** was called and having been

18 duly sworn, was examined and testified as follows:

19 **DIRECT EXAMINATION**

20 **BY MR. HENDERSON:**

21 Q. Would you tell us your full name, please, ma'am?

22 A. Dixie Roberts Presley.

23 Q. And back in 1997 your last name was Roberts; is

24 that correct?

25 A. Yes.

1 Q. Spell that last name for us, please.

2 A. R-O-B-E-R-T-S.

3 Q. All right, Ms. Roberts, do you live here in

4 Memphis?

5 A. No, sir. I live in Mississippi.

6 Q. And are you employed anywhere?

7 A. Yes, I am.

8 Q. Where at?

9 A. Cuts and Curls.

10 Q. Speak up just a little bit.

11 A. Cuts and Curls.

12 Q. What do you do there?

13 A. I cut hair.

14 Q. Let me direct your attention now back to the

15 night of February the 7th of 1997. Did you have occasion

16 to go to a place called the Memphis Inn that evening?

17 A. Yes, I did.

18 Q. And let me hand you picture here marked as

19 Exhibit Number 3, ask you to take a look at that, tell me

20 if you recognize that sign. Tell me if that's the same

21 hotel we're talking about.

22 (Exhibit tendered to witness.)

23 A. Yes, it is.

24 Q. Who were you with?

25 A. I was with Jim.

1 Q. And Jim who?

2 A. Donnelley I think is his last name.

3 Q. And what were y'all doing there?

4 A. We actually were riding around and stopped in to

5 get a map.

6 Q. Okay. Where were you trying to get to?

7 A. Home.

8 Q. Home in Mississippi?

9 A. We had started out originally at the -- you

10 caught me off guard. A hamburger place. And we were just

11 out riding around.

12 Q. All right. And trying to get back to the --

13 A. It was Friday night. And as far as I know he

14 wasn't really from that area either and we just kinda got

15 turned around and was going to get a quick-find map and get

16 on our way.

17 Q. All right. So explain to the ladies and

18 gentlemen over here what happened when y'all went to the

19 Memphis Inn and tried to get a quick map.

20 A. I'm sorry?

21 Q. Explain to them what happened when y'all went up

22 there to try to get the map.

23 A. Okay. We pulled into the parking lot of the

24 Memphis Inn. And we didn't pull into a parking space, we

25 just pulled in, because it was so full. I smoke. I was

1 looking in my purse for some cigarettes, so I was looking
2 down when we pulled in.

3 Jim got out of the car, went into the hotel.
4 Approximately a minute or so later he come back out to the
5 car and said --

6 Q. All right. Now, don't go into what somebody else
7 told you. Just tell us what you actually saw yourself.

8 A. All I saw -- as I was sitting there smoking my
9 cigarette, I saw -- I can remember a maroon car right in
10 front of us. There was an empty parking space, and then a
11 car, and then it seemed like a white truck or van.

12 Q. And did y'all leave right after that?

13 A. Yes, sir. He came out and we left.

14 Q. And did you make it back home that night?

15 A. Yes, I did.

16 MR. HENDERSON: I have no further questions of
17 this witness at this time, Your Honor.

18 THE COURT: You may cross-examine.

19 MR. JOHNSON: Do you have any Jencks material?

20 MR. HENDERSON: Yes, I do. We are furnishing
21 Jencks material, Your Honor.

22 MR. JOHNSON: Would you indulge us just a moment,
23 Your Honor?

24 THE COURT: Sure.

25 MR. HENDERSON: While he's doing that, Your